

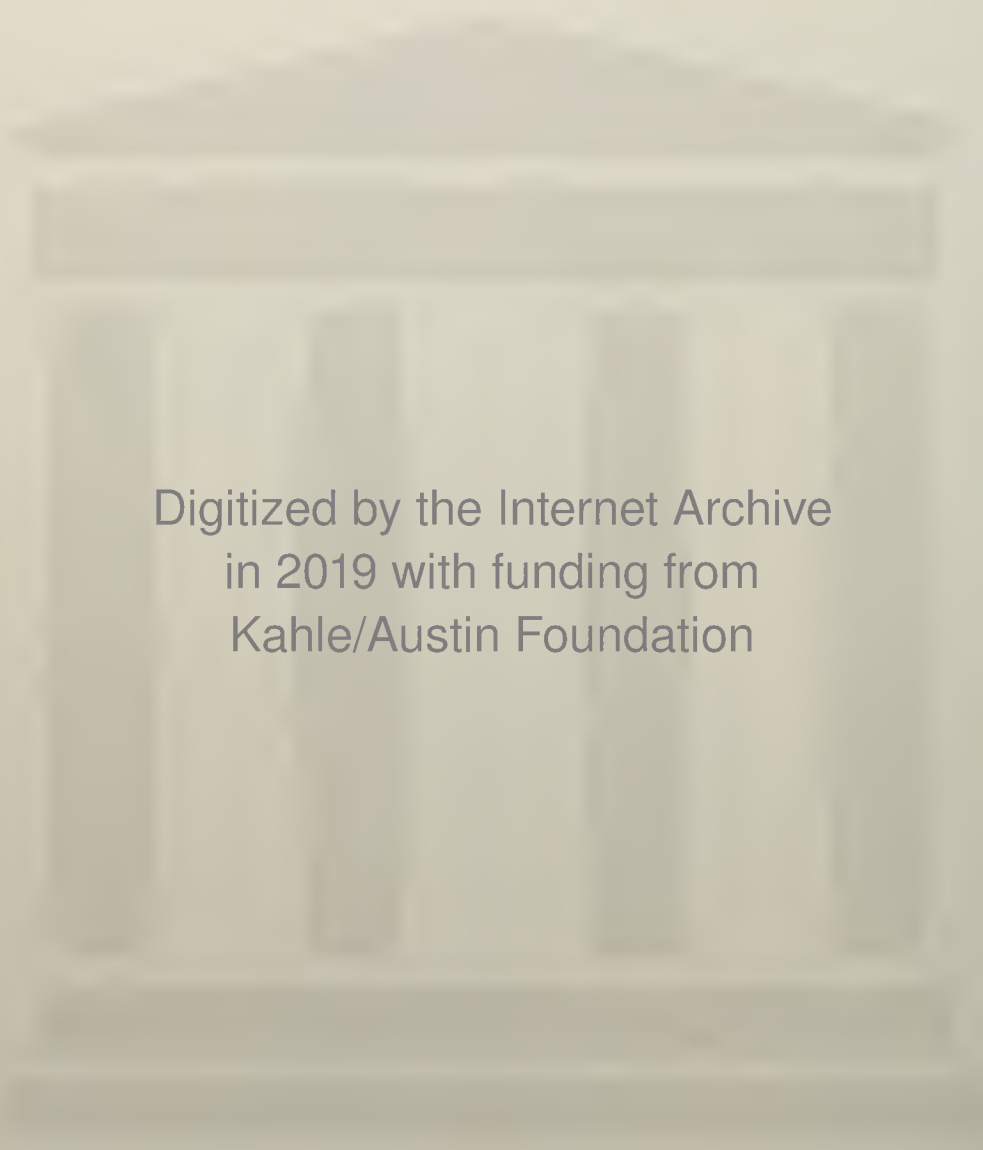


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# Selden Society

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TO ENCOURAGE THE STUDY AND ADVANCE THE KNOWLEDGE  
OF THE HISTORY OF ENGLISH LAW.

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Select Cases  
Before the King's Council in the Star Chamber

COMMONLY CALLED

The Court of Star Chamber

VOLUME II

A.D. 1509-1544



# Selden Society

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## SELECT CASES BEFORE THE KING'S COUNCIL IN THE STAR CHAMBER

COMMONLY CALLED

## THE COURT OF STAR CHAMBER

VOLUME II

A.D. 1509-1544

EDITED

FOR THE SELDEN SOCIETY

BY

I. S. LEADAM

LONDON

BERNARD QUARITCH, 11 GRAFTON STREET, W.

1911

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# INTRODUCTION

## PART I

1. The composition of the Court of Star Chamber by statute and in practice.
2. The Statute of 1529.
3. Changes in the forms of process.
4. Changes in the forms of address.
5. The Statute of 1539.

1. IT will be remembered that the Act of 1487 'Pro Camera Stellata' (3 Hen. 7, c. 1) constituted the Court afterwards known as the Court of Star Chamber as follows: 'That the Chaunceller and Tresorer of Englonde for the tyme beyng and Keper of the Kyngs pryvye Seall or too of theym calling to hym a Bisshopp and a temporall Lord of the Kynges most Honorable Councell and the too Chyeff Justices of the Kynges Benche and Comyn Place for the tyme beyng, or other too Justices in ther absence, upon bill or informacion put to the seid Chaunceller, for the Kyng or any other, have auctorite to call before theym by Wrytte or Pryvye Seall the seid mysdoers and theym and other by ther discrecions to whome the trouthe may be knowen to examyn, and such as they fynd therein defectiff to punyssh theym after their demerites,' &c. In the introduction to the former volume it was shewn<sup>1</sup> that these statutory regulations were constantly disregarded. Hudson, the Clerk of the Court in the reign of Charles 1, founding upon records now lost, tells us that 'about the tenth, eleventh, and twelfth years of that king (Henry 7) these cases were more often heard before the President of the Council than before the Chancellor, Treasurer, or Privy Seal, whereby it is most manifest, by the subsequent as by the precedent practice, that the Court then sat not by virtue of that statute, the president

<sup>1</sup> Pp. xxxvi, xliii.

of that council not being mentioned therein, but sat, as they antiently had done, and by as antient, if not more antient authority than any court in Westminster Hall.’<sup>1</sup> The composition of the Court as set out in the decree of the Star Chamber in the Abbot of Shrewsbury’s case, dated July 8, 23 Hen. 7 (1508), attested this irregularity. In that case the Chancellor, Archbishop Warham, was indeed present, but neither the Treasurer nor the Lord Privy Seal, nor a Bishop.<sup>2</sup> And this, notwithstanding a resolution of all the Common Law judges in 1493 that under the Act ‘Pro Camera Stellata’ there was ‘nul juge sinon Chancelier, Treasurer ou Privy-Seel ou deux de eux & les autres sont assistants & aidants & nemy Juges.’<sup>3</sup>

Nevertheless, there are in the present volume, in the instances of the two decrees which have been preserved, indications of an endeavour towards what, as contrasted with the irregularities mentioned by Hudson, may be called an approximate compliance with the requirements of the statute. In the case of the *Inhabitants of Thingden v. Mulsho* the decree of November 7, 1911, is draughted by the Chancellor, the Lord Treasurer, and the Lord Privy Seal in the Inner Chamber of the Court of Star Chamber,<sup>4</sup> but it is formally delivered by a Court of sixteen.<sup>5</sup> This Court included the three officials mentioned, and they complied with the statutory direction to summon ‘a Bisshopp and a Temporall Lord of the Kynges most Honorable Councell,’ for there were present three other bishops and three other temporal lords. But the surprising thing is that, though questions of law were involved in this case, the two Chief Justices or, in the alternative, two justices, were not summoned as prescribed. Not a single judge was present, and the Court must have depended for its law upon John Erneley, the Attorney-General, Sir Thomas Lovel,<sup>6</sup> and Sir Robert Drurye,<sup>7</sup> the last a judge of the Court of Requests. The procedure points to an acceptance at this date (1510) of the decision of the Common Law judges in 1493 that the assessors, other than the three great officers of State, ‘sont assistants et aidants et nemy Juges.’<sup>8</sup> But while the statute is literally interpreted in this respect,

<sup>1</sup> ‘Of the Court of Star Chamber,’ ‘Collect. Jurid.’ (1792), ii. 16. By this Hudson, of course, meant the indeterminate authority of the King’s Council.

<sup>2</sup> ‘Select Cases in the Star Chamber’ (1902), p. xxxvi.

<sup>3</sup> Y. B. E. T. 8 Hen. 7, f. 13, pl. 7.

<sup>4</sup> P. 8.

<sup>5</sup> P. 10.

<sup>6</sup> See p. 124, n. 11.

<sup>7</sup> See p. 13, n. 18.

<sup>8</sup> ‘Select Cases’ (1902), p. xxxv. How far the presence of the judges was necessary to give legal force to the judgements of the Court is discussed there on pp. xxxiv and xlvii. It is clear that here again the Star Chamber did not hold itself bound by the judgement of 1493 affirming this necessity. See *ib.* xlvii, n. 1.

if the Court which delivered judgement were the Court which tried the case, the statutory composition was certainly disregarded.

The composition of the Court on May 2, 8 Hen. 8 (1516), when judgement was delivered in the case of the Mayor and Aldermen *v.* the Artificers of Newcastle-on-Tyne,<sup>1</sup> merits attention. This was one of the rare occasions on which we have record of the attendance of the Sovereign in person. As the preamble to the decree shews, Henry 8 did not attend the hearing of the case, which was begun before Archbishop Warham, as Chancellor, and after his resignation in 1515 continued before his successor, Wolsey. Other members of the Court were the Lord Treasurer, Thomas Howard, duke of Norfolk, and Richard Foxe, bishop of Winchester, Lord Privy Seal,<sup>2</sup> though one of these, in addition to the Chancellor, sufficed for a statutory Court. The bishop and temporal lord prescribed by the Act were represented by Thomas Ruthal, bishop of Durham, and Charles Brandon, duke of Suffolk. Besides these, there are enumerated as sitting at the hearing of the case nine members of the Privy Council, peers and commoners. But it is expressly stated that there were also present 'other of the Kynges moost honorable counsell.' These all appear to have sat as judges,<sup>3</sup> as the recital of their names indicates, for the draughting of the decree is scrupulously precise.

Upon this vexed question, the position and functions of the King's justices in this tribunal,<sup>4</sup> the form of the decree throws a clear light. After reciting the composition of the Court and the forms of its procedure at the hearing of the case, it carries us to the moment of the delivery of judgement. At this point it is careful to set out its adherence to the prescriptions of the Act 'Pro Camera Stellata' of 1487 (3 Hen. 7, c. 1). It recites the summoning of the King's justices of either Bench, &c., adopting in fact the phraseology of the statute. Not a word has been said of the judges up to that point. Nor are they now represented as delivering judgement. 'The seid most honorable counsaill in the seid Sterre Chambre callyng to theym the Kynge's Justices of either Benche by the Kynge's moost dredde commaundement to theym given in thaduoydyng of all maner of doubtes questiones and ambyguytes that might rise . . . have ordeyned

<sup>1</sup> P. 117.

<sup>2</sup> Thomas Ruthal, bishop of Durham, succeeded him on May 18, 1516, after this judgement was delivered. L. and P. ii. 2197.

<sup>3</sup> On this point of controversy see 'Select Cases in the Star Chamber' (1902), pp. xxxix-xlv.

<sup>4</sup> See 'Select Cases in the Star Chamber' (1902), pp. xxxv, xxxviii, xlv.



declared and adiugged,' &c. Apart from the construction of the sentence, which makes its meaning clear, the King's justices could scarcely have delivered judgement upon a case they had not heard. Here, as in the Abbot of Shrewsbury's case, they were referees upon legal points, not judges of the Star Chamber,<sup>1</sup> and Coke's contention to the contrary<sup>2</sup> is plainly disproved. Lastly, it is to be observed that the King, though present, takes no part in the judgement. His participation would, indeed, have been open to the objection of common sense, though not of law, that he had not heard the case. Notwithstanding his presence at its delivery, the form of the judgement runs in the name of the Council. The precedent is of importance, as tending to negative the claim advanced and exercised by James 1, founded upon the practice of the Council as a judicial body prior to the Act of 1487, to sit and act as a judge in the Star Chamber.<sup>3</sup>

It has been seen that, according to Hudson, during the reign of Henry 7, and specifically between the years 1494 and 1497, the President of the Council frequently presided as judge in the Star Chamber, though not so much as mentioned in the Act '*Pro Camera Stellata*.' The tendency already noticed to a nearer compliance with the provisions of that statute discernible in the time of Henry 8, is further shewn by an Act passed in 1529.<sup>4</sup> The intention, it would seem, and the effect of this measure was to do very much what the Act '*Pro Camera Stellata*' had done in 1487. Henry 8's statute, like Henry 7's, gave a statutory sanction to a prevailing use, a use springing out of the indefinite jurisdiction traditionally possessed by the Council.

2. The statute of 1529 is intituled, '*An Acte that the presidente of the Kinges Counsaile shalbe associate with the Chauncellor and Treasurer of Englonde and the Keeper of the Kinges Privie Seale*.' The operative part enacts '*that from hensforth the Chaunceller, Tresorer of England and the presedent of the Kynges moost Honourable Councell attendyng upon his mooste honorable person for the tyme beyng, and the keper of the Kynges Pryve Seale or two of them, callynge unto them one Bysshop and one Temporall Lorde of the Kynges moost honorable Councell and the two Chefe Justices of the Kynges Benche and the Comon Place for the tyme beyng, or other two of the Kynges Justices in their absence, upon any Bill or Informacyon herafter to be put in (to) the Chaunceller of England,*

<sup>1</sup> See '*Select Cases in the Star Chamber*' (1902), pp. xxxvii, xxxviii.

<sup>2</sup> *Ib.* p. xxxiv, and Coke, 4 *Inst.* f. 62.

<sup>3</sup> *Ib.* p. xxiv.

<sup>4</sup> 21 *Hen.* 8, c. 20.

Treasurer, Presydent of the Kynges seyde moost honorable Councell or Keper of the Kynges Pryve Seale for the tyme beyng, for any misbehavyng before rehersed, from hensforth have full power and auctorite to call before them by Wrytt of Pryve Seale such mysdoers and them and other by their discreccion by whome the truthe may be knowen to examyn and suche as they shall fynde defectyve to punyssh them after their demerytes after the forme and effecte of the said former Estatute and of all other Estatutes therof before made and nat repelled nor expyred, in like maner and forme as they shulde and ought to be punysshed yf they were therof convycted after the due ordre in the Kynges Laws.'

3. A comparison with the Act of 1487 shews how closely it was followed by that of 1529. The title of the latter Act, indeed, avows an intention to enlarge the composition of the Court, by the addition of another official member, but no other purpose of substantial change can be read into it. It gave statutory sanction to the practice by which the Lord President already sat as judge, as well as to another usage in which the Act of 1487 had not been followed. That Act specified the Chancellor as the person to whom plaintiffs were to address their complaints. Its words were 'upon bill or informacion put to the seid Chaunceller.' Yet it was seen in the last volume<sup>1</sup> that in five cases in which it was established that the Court of the Star Chamber, and not the Council, was the tribunal invoked, only two of the bills were addressed as the Act of 1487 prescribed. There were bills addressed to the King, a form which, in Coke's day, had become the rule,<sup>2</sup> others to the King and the Lords of the Council, others to the Chancellor and the Lords of the Council, others to the Lords of the Council only. The Act of 1529 recognizes this diversity of use. For the clause directing that the 'bill or informacion' be put to the Chancellor, it substitutes, as has been seen, apparently in the alternative, the Chancellor or the three great officials enumerated.

One other change is made in the later Act, which may be a clerical error and which probably imports no constitutional significance. The Act of 1487 authorized the Chancellor, the Treasurer, and the Keeper of the Privy Seal 'to call before theym by Wrytte or Pryvye Seale the seid mysdoers.' It will be observed that the words of the Act of 1529 are 'by Wrytt (of) Pryve Seale,' printed in the Statutes of the Realm with the word 'of' bracketed as shewn here. A note to this word gives "'or'" printed copies.' It is difficult to decide between

<sup>1</sup> Pp. xv, xvi.

<sup>2</sup> E. Coke, 4 Inst. f. 62.

a contemporary MS. and a contemporary print. The words of the Act of 1487 point to the practice of issuing Letters of Privy Seal in some cases and Writs of Privy Seal, otherwise known as Writs of Subpœna under Privy Seal, in others.<sup>1</sup> If the word 'of' be accepted as the correct reading, it is arguable that the intention was to exclude the practice of issuing Letters of Privy Seal.<sup>2</sup> The answer to this is twofold. In the first place, as was shewn in the former volume, the Act of 1487 was an enabling and not a restrictive statute. It sanctioned the practice of the Council, and the Act of 1529 is conceived in the same spirit. Secondly, it is not certain that the practice of issuing Letters of Privy Seal was discontinued. In this volume is mentioned<sup>3</sup> the issue against John Mulsho of 'your gracious letturz under your Privey Seale the xv<sup>th</sup> day of Februarie last past,' that is, probably, 1527. Some eighteen years earlier (c. 1509) the Prior of Bradenstoke prayed the issue of 'your gracious lettres of Prevy Seale or wrytte of subpena' 'against the defendant.'<sup>4</sup> Here 'or' is clearly disjunctive. After 1529 no mention of Letters of Privy Seal occurs throughout these cases. It would be rash, however, to draw the inference from data so insufficient that Letters of Privy Seal ceased to be issued after the passing of the Act of 1529. It is more probable that the practice of the Council, as after the Act of 1487,<sup>5</sup> was not immediately altered,<sup>6</sup> though in Hudson's time it would appear that Letters of Privy Seal were apparently obsolete. It may, however, be that the 'of,' even though perhaps a printer's error, was sooner or later accepted as authoritative, and that to this cause is to be traced the change in the form of process.

It may be taken that the form of process prayed for affords some indication of the practice of the Court, and between the cases of the reign of Henry 7 and those of Henry 8 there is an obvious difference. Uniformity was beginning to take the place of variety. In the introduction to the former volume<sup>7</sup> it was shewn that among eleven cases Letters of Privy Seal were thrice prayed, the dispatch of a serjeant-at-arms four times and writs of subpœna only twice, while in two prayers the process desired was unspecified. A similar arrangement

<sup>1</sup> See 'Select Cases in the Star Chamber' (1902), pp. xxiv, xxv.

<sup>2</sup> See *ib.* p. xix.

<sup>3</sup> P. 16.

<sup>4</sup> P. 3.

<sup>5</sup> Cf. 'Select Cases in the Star Chamber' (1902), p. xlv.

<sup>6</sup> The insistence by peers in Hudson's

day of 'letters of summons like letters missive from the lord chancellor or lord keeper' does not appear to affect this question, since the Chancellor's letter was not under Privy Seal. See 'Of the Court of Star Chamber,' p. 144.

<sup>7</sup> 'Select Cases in the Star Chamber' (1902), p. xxv.



in parallel columns will shew the change, those cases being omitted in which, as in *Bareth v. Newby*, no prayer is expressed.

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From this it appears that the dispatch of a serjeant-at-arms was most favoured by plaintiffs under Henry 7, five out of eleven, or over 45 per cent.,<sup>1</sup> electing such form of process. That somewhat peremptory proceeding had so far fallen into disuse under Henry 8, that among these twenty-three cases it is only once prayed. Similarly with the process, which may be reckoned at the other end of the scale of coercion, the issue of Letters of Privy Seal. These were originally, as was seen, not necessarily accompanied by a subpœna.<sup>2</sup> That Letters of Privy Seal in this monitory form were not entirely obsolete appears from the petition of the Prior of Bradenstoke quite early in the reign of Henry 8.<sup>3</sup> It may well be the case, therefore, that the 'Letturz under your Privey Seale' of February 15, 1527, recited by the plaintiff Henry Selby, as having been issued against John Mulsho, were of the same character, the more so that they appear to have been issued on an *ex parte* statement of complaint.<sup>4</sup> Nevertheless, reasons were adduced in the last volume<sup>5</sup> for concluding that as early as the time of Henry 7 Letters of Privy Seal were, in

<sup>1</sup> 'Select Cases in the Star Chamber' (1902), p. xxvi.

<sup>2</sup> *Ib.* p. xxi.

<sup>3</sup> P. 3 of this volume.

<sup>4</sup> *Ib.* E, p. 16.

<sup>5</sup> 'Select Cases,' p. xxvii.

the ordinary course, accompanied by a writ of subpœna; so that as Hudson, writing of his own time, expressed it, 'the Privy Seal, or subpœna for appearance,' was 'all one.'<sup>1</sup> If any distinction survived, plaintiffs would naturally prefer the mandatory to the monitory form, and a prayer for the issue of a writ of subpœna left no room for doubt whether the Letter of Privy Seal was or was not to have a subpœna attached to it. Whatever, therefore, may have been intended by the prayers for the issue of Letters of Privy Seal by the plaintiffs of the time of Henry 7, it is, at any rate, worthy of notice that out of the eleven cases belonging to that reign already mentioned, this was the process prayed by three of the plaintiffs—that is, by more than 27 per cent.—while writs of subpœna were only specifically prayed twice. On the other hand, if the prayers in the alternative form of the Prior of Bradenstoke, the Attorney-General *v.* Danby and Others,<sup>2</sup> and Smythe *v.* Danckerd<sup>3</sup> be included, under Henry 8 the prayer for the issue of writs of subpœna occurs in fourteen out of the twenty-three cases—that is, in over 60 per cent. By the beginning of the seventeenth century, as we learn from Hudson, the issue of the 'privy seal or subpœna,' that is, a writ of subpœna from the office of Privy Seal, was the uniform practice, save only in the case of peers.<sup>4</sup> The prayer in the alternative for 'Proclamation' in the two informations above mentioned is in accordance with the provisions of the Act of 1539, elsewhere discussed,<sup>5</sup> and need not be considered here.

This change in the form of process verifies the conclusion derived from the cases of the reign of Henry 7, that it was not determined by the rank of the defendant. Hudson, in discussing the privilege claimed by peers in his day of summons by letter from the Lord Chancellor, cites precedents of the reigns of the first two Tudors for summoning them by serjeants-at-arms or by writs of Privy Seal, that is, accompanied by a subpœna.<sup>6</sup> Among the cases in the present volume there is not one in which the defendant is a peer; while the regularity with which, when the form of process desired is specified, a writ of subpœna is prayed for, precludes the supposition that it was determined by the quality of the alleged offence.

4. Attention was called in the former volume<sup>7</sup> to the variety in the form of address, notwithstanding the prescription of the statute 'Pro

<sup>1</sup> 'Of the Court of Star Chamber,' p. 144.

<sup>5</sup> P. 235, n. 33, of this volume.

<sup>2</sup> P. 234 of this volume.

<sup>6</sup> 'Of the Court of Star Chamber,' p. 144.

<sup>3</sup> *Ib.* p. 283.

<sup>7</sup> Select Cases in the Star Chamber'

<sup>4</sup> 'Of the Court of Star Chamber,' p. 144. (1902), pp. xiv-xvi.



Camera Stellata,'<sup>1</sup> that the bill or information was to be 'put to the Chancellor.' The cases of the time of Henry 7 established that Coke's statement<sup>2</sup> that the King was the person always addressed, as was the practice in his day, was unhistorical. Among five cases the King was only addressed twice, the Chancellor or Lord Keeper twice, the Lords of the Council once.<sup>3</sup> The cases published in this volume display a like irregularity. We may exclude the two informations of the Attorney-General *v. Danby* and *Smythe v. Danckerd*, brought under an Act of 1539, and not before the Court of the Star Chamber proper, but before a special statutory tribunal sitting in the Star Chamber.<sup>4</sup> The case of Henry Selby *v. John Mulsho*<sup>5</sup> may also be omitted, there being reason to believe that this was really a bill filed in the Court of Requests,<sup>6</sup> where the practice was to address the King only.<sup>7</sup> It may be doubted, too, whether the petitions of the justices of Devon<sup>8</sup> and of the Butchers' Company of London<sup>9</sup> do not rather belong to the Council than to the Court of Star Chamber. The cases, considered in relation to this point, are as follows:—

Page	Bill	Persons addressed	Prayer for summons before	Page
1	1. Prior of Bradenstoke <i>v. Anne</i>	King and Council	King 'ubicunque fuerit'	4
18	2. Henry Selby <i>v. John Mulsho</i>	King and Council	King and Council at Star Chamber	20
38	3. John Mulsho <i>v. H. Selby &amp;c.</i>	King	King or Council in Star Chamber	45
45	4. John Mulsho <i>v. H. Selby &amp;c.</i>	King	King or Council in Star Chamber	48
57	5. Thomas Mulsho <i>v. H. Selby &amp;c.</i>	King	King or Council in Star Chamber	67
68	6. Mayor of Newcastle <i>v. Prior of Tynemouth</i>	King	Unspecified	74
75	7. Mayor <i>v. Artificers of Newcastle</i>	King	Unspecified <sup>10</sup>	77
118	8. Sely <i>v. Middelmores</i>	Chancellor	Unspecified	119
120	9. Browne <i>v. Busshell</i>	King	King in Star Chamber	121
122	10. Petition of Justices of Devon	Chancellor	Unspecified	123
123	11. Abbot of Peterborough <i>v. Power</i>	King	Council	126
142	12. Sheriff <i>v. Mayor of Bristol</i>	Chancellor	Chancellor	147
168	13. Bareth <i>v. Newby</i>	King	Unspecified	176
178	14. Inhabitants of Yakesley &c. <i>v. Alward &amp;c.</i>	Chancellor	Unspecified	182
182	15. Inhabitants of Yaxley <i>v. Aylward &amp;c.</i>	Chancellor	Chancellor and Council	184

<sup>1</sup> 3 Hen. 7, c. 1 (1487).

<sup>2</sup> 4 Inst. c. 5, f. 62.

<sup>3</sup> The other cases were, for reasons there set out, excluded from consideration. See pp. xv, xvi.

<sup>4</sup> See p. 226 of this volume, n. 8.

<sup>5</sup> *Ib.* p. 15.

<sup>6</sup> *Ib.* p. 15, n. 1.

<sup>7</sup> *Ib.* p. 307, n. 2.

<sup>8</sup> *Ib.* p. 122.

<sup>9</sup> *Ib.* p. 221.

<sup>10</sup> 'Which billes of compleynt were receyued in the Sterre Chambre' (p. 109).

Page	Bill	Persons addressed	Prayer for summons before	Page
184	16. Cade and Others <i>v.</i> Clarke and Others	Chancellor	Chancellor in Chancery	191
206	17. Bakers &c. of Andover <i>v.</i> Knyght	King .	'this youre honourable Court'	210
210	18. Knyght <i>v.</i> Gunter and Others	King .	King and Council in Star Chamber	215
219	19. Brydges <i>v.</i> Cawsye . . .	King .	King and Council at Westminster	221
221	20. Petition of Butchers' Company	King .	Unspecified	225
237	21. Parishioners of Radclyffe <i>v.</i> Mayor of Bristol	King and Council	King and Council <sup>1</sup>	239

Whether cases 10 and 20 be included or not, the tendency of the address towards the practice of Coke's day is manifest: including all the twenty-one, twelve bills are addressed to the king alone; to the Chancellor six; to the king and lords of the Council three. It will be observed, however, that in the concluding prayer for the summons of the defendant the Council is specified eight times as the tribunal, once as presided over by the Chancellor. This last form would seem to indicate the statutory Court of 1487. In 3, 4, and 5 the prayer is for summons before the King or Council in the Star Chamber. Since two of these are filed by John Mulsho, and the third by his grandson and successor Thomas Mulsho, and the form is unusual, it may be suspected that they are all from the pen of the same draughtsman. The expression, however, of the mayor, aldermen &c. of Newcastle upon Tyne of readiness 'to be ordered and corrected by your grace, your most honorable Counsaill or whome it shall please your highnes to lymyte and appoynte for the same' (p. 77) may be taken as in effect identical. In the former volume this alternative form occurred only twice.<sup>2</sup> The Abbot of Peterborough in 1518, though he addresses the King, prays that the defendant be commanded 'personally to appere before the lordes of your most honorabull cowncell.'<sup>3</sup> Cade and Others *v.* Clarke and Others (p. 184) was, as internal evidence proves, originally filed in Chancery and transferred to the Star Chamber; while the form of the prayer in the Prior of Bradenstoke *v.* Anne for a summons to appear before the King 'ubicunque fuerit' indicates this to have been a suit brought before the Council

<sup>1</sup> An implication contained in the prayer.

<sup>2</sup> 'Select Cases in the Star Chamber' (1902), Hewyt *v.* Mayor &c. of London, p. 77, 'All which maters . . . the said mayre . . . will be ready to verifie as shalbe thought by your highness or by

the lordes of your most honourable Councell,' &c. In Butlond and Others *v.* Austen and Others (ib. p. 265), the prayer is for the summons of the defendants, 'before your heighnes or before the lordes of your moost honorable Council.'

<sup>3</sup> P. 126 of this volume.

rather than before the Council sitting as the Court of Star Chamber.<sup>1</sup> Three of the bills explicitly and one implicitly pray for a summons before King and Council, in this following the form which, as the cases anterior to the statute of 1487 '*Pro Camera Stellata*,' published in the last volume, shew was usual in bills before the Council. But of the three only two specify the Star Chamber. The third, *Brydges v. Cawsye*, prays for a summons 'before your excellent hyghnes and your sayd most honorable Counsell at Westminster' (p. 221). That this formula meant the Star Chamber may be inferred from two considerations. In *Browne v. Busshell* the prayer is for a summons 'to appere before your highnes in your Sterre Chambre at Westminster.' This bill is indorsed '*Scilicet Coram domino Rege et consilio suo apud Westmonasterium*.' In the second place, as was shewn in the previous volume,<sup>2</sup> the summons before the King and Council proper, as distinguished from the Court of the Star Chamber, ran '*ubicunque fuerit*.'<sup>3</sup> It may be said, therefore, that four of the bills designate the Star Chamber as the court of trial, apart from the three in the alternative form upon which comment has already been made.

5. No change other than as noticed appears in the procedure to distinguish the reign of Henry 8 from that of his father. The steps between the bill and the decree are discussed at length in the former volume.<sup>4</sup> The present volume contains interesting bills of costs.<sup>5</sup> In the taking of evidence by commission it will be remarked that extraordinary latitude prevailed, there being apparently no conception of what modern lawyers understand by the rules of evidence. The capital example of this occurs in the case of the Abbot of Peterborough *v. Power*, when we find returned to the Court as evidence: 'The Saiyng of Sir Richard Sparke clerk which wold nott be sworn, but sayd he hard it of a Man which was nott brought afore vs.'<sup>6</sup> It may be added, however, that the commissioners do not appear to have been lawyers, though one of them was the son of a Chief Justice, and both were in commissions of the peace.

The two informations, the *Attorney-General v. Danby and Others*,<sup>7</sup> and *Smythe v. Danckerd*<sup>8</sup> are rather cases before the Council in the Star Chamber, to use the words of the Act of 1539, on which they are

<sup>1</sup> Upon this formula and the concurrent jurisdiction of the Council see '*Select Cases*' &c. (1902), pp. liii-lvi.

<sup>2</sup> Pp. xvi-xviii.

<sup>3</sup> See also p. 4 of this volume, and *ib.* n. 23.

<sup>4</sup> *Select Cases* (1902), pp. xiv-xxxv.

<sup>5</sup> Pp. 196-205.

<sup>6</sup> P. 138.

<sup>7</sup> P. 225.

<sup>8</sup> P. 277.



laid,<sup>1</sup> than cases heard before the Court of Star Chamber proper. The Star Chamber was the *locus in quo* only, and the Court derived neither its authority nor its composition from the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1), nor yet from the indeterminate jurisdiction of the Council with which the Court of Star Chamber, in its normal sense, was associated. It was a recent Statutory Court, having at its head the Archbishop of Canterbury, who is, on that account, the personage in both cases addressed by the informers. As the tribunal thus constituted included the great officers who sat as judges in the Star Chamber under the Statute of 1529, it is intelligible how these documents came to form part of the papers of the Court of Star Chamber. The only reason that can be suggested for setting up this special tribunal, so similarly constituted and with a jurisdiction not apparently differing in quality from that already exercised by the Court of Star Chamber, throws some light upon subsequent controversies. It is that the King in the critical year 1539, when foreign invasion was apprehended, really was, as is declared in the preamble to the 'Acte that Proclamacions made by the King shall be obeyed,'<sup>2</sup> anxious not to be 'driven to extend the libertye and supremacye of his regall power and dignytye'; that he recognised the Court of Star Chamber to be in its origin a prerogative and not a statutory Court, and that he, therefore, preferred to fall back upon the authority of Parliament. A desire to be sheltered by Parliament from the remonstrances of foreign powers may also have been the motive for the ratification by an Act of November 1529<sup>3</sup> of a Decree of the Star Chamber of the previous February, regulating the conditions under which alien handicraftsmen might pursue their industries in England.

<sup>1</sup> See p. 226, n. 8.

<sup>2</sup> 31 Hen. 8, c. 8 (1539); see p. 226, n. 8.

<sup>3</sup> 21 Hen. 8, c. 16 (1529), 'An Acte rate-

fyng a Decree made in the Sterre Chamber concerninge Straungers Handicraftsmen inhabitinge the Realme of Englonde.'

## PART II

WITH the cessation of civil war and the increased vigour of the central government under Henry 7, the country plainly improved in peacefulness, and the offences against public order, which the Star Chamber Act was designed to repress, became fewer and less flagrant. The natural consequence followed that this tribunal, having successfully asserted its authority to put down violence, should seek employment for its energies elsewhere. We accordingly find an enlargement of its sphere of action in the direction of the regulation of trade, and especially in those branches of it which most nearly concern public tranquillity, the trade in foodstuffs.

The Star  
Chamber  
and  
Scarcity.

At a period when the country was dependent upon its own supplies, scarcity, and sometimes famine, was a danger constantly to be reckoned with. Even when not general, scarcity might be local or temporary, and both the municipalities and, in urgent circumstances, the central government endeavoured to furnish and regulate supplies. In the reign of Henry 8 the Star Chamber actively addressed itself to these problems. A group of cases has been selected, not all relating to the same year, because it is desirable that it should not be supposed that an isolated and exceptional scarcity was met by exceptional interventions, but samples of regulative measures constantly recurring in times of pressure. Considered together, they illustrate the methods by which those in authority sought to guard against or to alleviate public necessity.

Special pains were taken at the approach of scarcity to supply the centres of population, above all, London.<sup>1</sup> The corporation employed officers to purchase grain in the country, a practice which grew up in the fifteenth century. But the supply of London with wheat became in time too onerous for the individual efforts of mayors and aldermen, and in 1520 the City companies were first rated 'for provision to be made for wheat,' the sum of 1,037*l.* 3*s.* 4*d.* being raised with that object.<sup>2</sup> These efforts were seconded by the administration. Supplies were negotiated for from

<sup>1</sup> See Append., pp. 296, 302, *infra*.

<sup>2</sup> W. H. Black, 'History of the Leathersellers' (1871), p. 49.

France,<sup>1</sup> the Netherlands<sup>2</sup> and the Baltic.<sup>3</sup> At the same time licences were granted in favour of the officers engaged in collecting supplies, dispensing with the laws against forestalling and engrossing.<sup>4</sup> Nor were these licences confined to London, but to prevent conflicting claims the government was in the habit of assigning specified districts as sources of supply to the various towns. For example: in the spring of 1522 proclamations were published for provision of corn for the City of London in the counties of Essex, Herts, Cambs, Hunts, Norfolk, Suffolk, Beds, Bucks, Northants, Warwick, Leicester, Notts, Derby, Oxford, Berks, Lincoln, Surrey and Sussex.<sup>5</sup> To make these proclamations effective three auxiliary measures were necessary: some estimate must be arrived at of the supplies in the various shires that the inhabitants might not be reduced from sufficiency to want; the movements of corn must be controlled; and a vigilant watch against exportation abroad must be maintained at the ports.<sup>6</sup>

Inhabitants  
of Yakesley  
v. Alward,  
&c.

The year 1527 was a year of famine. 'In the winter season of this year fell great abundance of raine, and namelie in September, November and December. And on the sixteenth of Januarie it rained so abundantlie that great flouds thereby insuing destroyed corne fields, pastures, and drowned manie sheepe and beasts. Then was it drie till the twelfe of Aprill and from thence it rained everie day or night till the third of June, and in Maie it rained thirtie hours continuallie without ceasing, which caused great flouds, and did much harme, namelie in corne, so that the next yeare it failed within this realme and great dearth ensued.'<sup>7</sup> . . . 'By reason of the great wet that fell in the sowing time of the corne, and in the beginning of the last yeare, now in the beginning of this, corne so failed that in the citie of London for a while bread was scant, by reason that commissioners appointed to see order taken in shires about ordeined that none should be conueied out of one shire into another.'<sup>8</sup> In the country the degree of distress is described by the inhabitants of Yakesley and Holme, in Huntingdonshire, in their petition<sup>9</sup> against Thomas Alward. 'This last yere they the ['pore comons'] were fayne to sell for very nede for bread corne their peauter, their bras and bedding with other such as they had to their vtter vndoing,

<sup>1</sup> This was in 1527. L. and P. Hen. 8, iv. 3542, 3543; 'Hall's Chron.,' p. 736.

<sup>2</sup> L. and P. iv. 4147, 4244.

<sup>3</sup> 'Hall's Chron.' in Holinshed's 'Chronicles' (ed. 1808), iii. 736.

<sup>4</sup> L. and P. Cp. i. 3781, 3786, &c.

<sup>5</sup> Ib. iii. 2015. Cp. Append. ii. p. 288 infra.

<sup>6</sup> For a proclamation of 1529 and a draught Bill of 1534 for effecting these objects see Append. pp. 288, 290.

<sup>7</sup> I.e. 1526. Holinshed's 'Chronicles' (ed. 1808), iii. 715. Sub anno 1527.

<sup>8</sup> Ib. 722.

<sup>9</sup> P. 178 infra.



and somme dyed for very hunger.'<sup>1</sup> Carriers of corn to London were plundered on the road, and the French Ambassador was forced to protect his bread at the baker's by force of arms.<sup>2</sup> In the palatinate of Durham Wolsey's rent-collector reported in 1528 that the country was 'so poor from failure of corne and death of cattle for the last three years,' that the arrears of rents due to the former Bishop (Ruthal) could not be levied without 'utterdoing' the country.<sup>3</sup>

To the first of three measures for dealing with supplies already mentioned belongs the earliest document of this group of cases published in the present volume. It is a certificate of the King's commissioners for Staffordshire, some of the principal gentlemen of the county, as to the supply of corn.<sup>4</sup> The commission to which this was a return was directed on November 18, 1527 to the leading men of the various counties.<sup>5</sup> It set forth that owing to forestalling, regrating and engrossing of wheat in all shires of England 'more scarcity of corn is pretended to be within this our said realm than, God be thanked, there is in very truth.' It authorized the commissioners to search the barns and stacks and at the same time to put into execution the Statute of Winchester,<sup>6</sup> and those against vagabonds and unlawful games. Proclamations were issued at the same time that all owners of grain who had more than enough for their households should sell it at the nearest market. The commissioners were to make inquiry in every town and village if there were any corn concealed; also to inquire of persons forestalling, regrating and engrossing, whom the commissioners, being justices of the peace, should not only try at the next sessions, but should order to appear before the Council by the quinzaine of St. Hilary (January 27). Justices were to enforce the Statute of Winchester, and other statutes concerning beggars and vagabonds, unlawful games, and putting down alehouses and inns at villages' and towns' ends,<sup>7</sup> idle persons having of late very much increased, which has led to continual thefts, burglaries and murders.

<sup>1</sup> 1527-28, p. 182, *infra*.

<sup>2</sup> L. and P., Hen. 8, iv., App. 128. Du Bellay to Francis I, November 26, 1527.

<sup>3</sup> William Fraunkeleyn to Rauf Hungate, *ib.* iv. 5111.

<sup>4</sup> P. 165.

<sup>5</sup> L. and P. iv. 3587.

<sup>6</sup> 13 Ed. 1 (1285), the great Police Act, imposing upon the Hundreds liability for robberies and providing for the arrest of suspicious strangers.

<sup>7</sup> This refers to the statute of 1504 (19 Hen. 7, c. 12) intituled 'De validis mendicantibus repellendis.' It provided

that vagabonds should be set in the stocks a day and a night, and then sent to the place of their birth or last residence; that beggars not able to work should be sent to their place of birth; that no apprentices, labourers or artificers should play at 'the Tables,' nor at 'the Tenys, Closshe, dyse, cardes, boweles, nor eny other unlawfull gamys.' These other unlawful games were set out in a statute of 1386 (12 Ric. 2, c. 6), and included football, quoits, skittles, 'and other such importune games,' instead of which the praetice of arehery on Sundays and holy

For the principal purpose of ascertaining the available supplies, the commissioners were instructed to divide themselves into different companies in different parts of the shire, to view the store of corn in all barns and houses, to weigh how much could be spared to the market, and to command everyone to bring a portion to the next market town every market day, as they thought meet. The commissioners were also directed to make certificate of the whole quantity of corn in the county, and of the portions limited to each man for the supply of the markets. They were also to inquire of all persons regrating corn, to set the example themselves of sending their own corn into the market, and to certify their proceedings to the Council. The certificate printed in the text, though undated, is clearly a return to these instructions.

Bareth v.  
Newby.

Arising out of these commissions is the case of Bareth and Others v. Newby,<sup>1</sup> belonging to January 1528, the incidents narrated having taken place in the previous December. When two of the commissioners for Northamptonshire, Sir Thomas Tresham and Edward Montagu, Esquire, to whom had been allotted the inquiry in the Hundred of Polebroke, visited Oundle, complaints were laid before them of the conduct of one James Newby. His offence was that, contrary to the order of the commissioners, instead of bringing his grain to the market of Oundle, where he lived, he had sold it 'vnto Strawngers dwelyng in owt shyers.' On three market days in three successive weeks he repeated this conduct, though, according to the informer, 'he (Bareth) hard the pore peple make grett lamentacyon for corne that he petyd them sore in his hart. There was x or xij byares agenst one seller.' In order to bring Newby within the wide net of the commissioners' powers he was further accused of indulgence in the forbidden games of tables, dice and cards. With him was associated one Alexandre Symson as a forestaller and regrater. Symson was also charged *ad invidiam* with 'holdyng iiij<sup>or</sup> grett fermeholds of watter mylles that wold susteyne iiij honest mens leuyngs.' This and other additions of articles of vague opprobrium to the charges of offences against the law shew that feeling in Oundle ran high. But that the level of famine had not been reached in that

days was ordered. A statute of 1410 (11 Hen. 4, c. 4), confirming this statute, added 'hand-ball' to the unlawful games. Further additions were made by a statute of 1478 (17 Ed. 4, c. 3), viz. 'Half Bowl, Hand-in and Hand-out and Queckboard.' Two years' imprisonment and a fine of

10*l.* was the penalty, which might mean imprisonment for life in the case of poor persons. The statutes of Henry 8 against vagabonds and unlawful games were later than 1527.

<sup>1</sup> Pp. 168-78.



district may be inferred from the report of these commissioners for the Hundreds of Polebroke and Navisford and eight 'towns' in the Hundred of Hukyslow, 208 'towns' in all. They return that grain in certain persons' hands, above the finding of their houses and the seeding of their grounds, there were 1368 quarters. Since their first view, they added, the markets had been sufficiently well supplied.<sup>1</sup> Doubtless in accordance with their instructions,<sup>2</sup> they ordered the defendant Newby to enter an appearance before the Council—that is, the Court of Star Chamber. With what fate he met there is now unknown.

It has been said that control of the internal movement of corn by government was felt to be essential to the effective regulation of the supplies. A hint of this occurs in the last case, where jealousy was shewn of sales by the defendant to buyers from other shires. Of such purchasers, those from the maritime counties were most suspected and most excited popular animosity. The system of ordering corn to be brought to market and the fixing of prices by municipalities and magistrates tended to defeat its own objects. It increased the temptation to smuggle corn to other parts of the country where higher prices ruled, and to export to those countries of Western Europe in which, as frequently happened, contemporaneous scarcity prevailed. The worse the scarcity, the greater the temptation.<sup>3</sup> In 1528 the rural population had been impoverished by the famine prices of the preceding year, and, though the extremest pressure had abated, scarcity still prevailed. The people were largely living on beans and pease,<sup>4</sup> and how important these had become to their sustenance appears from the complaint of the constables of Yaxley and Holme in Huntingdonshire.<sup>5</sup> According to them, Thomas Alward, of Lynn in Norfolk, a seaport town, in itself an address awaking suspicion, had on November 30 of that year, in concert with another, so engrossed pease, beans, barley and oats as to raise the price in the markets against the resident buyers. The constables or the populace, it does not clearly appear which, refused to allow the intruders to load their barge. It was the belief of the inhabitants that during the famine of 1527, the corn merchants of Lynn had exported pease thence to Scotland, and, as one of them said, 'pyned vs for hunger.

<sup>1</sup> L. and P. iv. 3587, 5.

<sup>2</sup> *Ib.* 3.

<sup>3</sup> In 1556, when wheat was at the unprecedented price of 28s. 5½d., wheat was being smuggled from one county to another, if not to foreign ports, by counter-

feited licences. 'Acts of Privy Council,' ed. J. R. Dasent (1893), vi. 28.

<sup>4</sup> See p. 179, n. 14, and p. 182.

<sup>5</sup> P. 182.

<sup>6</sup> P. 183.

The county magistrates, when requested to authorise the constables' action, saw matters in a different light. High prices of agricultural produce were not without compensations to resident landowners. They refused to allow interference with the engrossers and threatened the obstructionists with imprisonment. The aggrieved inhabitants, who draw a lamentable picture of their sufferings from want, forthwith invoked the protection of the Star Chamber.

Attorney-  
General *v.*  
Danby and  
Others.

By the next two cases, the Attorney-General *v.* Danby and Others<sup>1</sup> and Smythe *v.* Danckerd and Others,<sup>2</sup> we are carried a step further. We see the efforts made by the government to prevent the export of grain abroad, and one of the devices by which the prohibition was sought to be evaded. The Rolls of the King's Remembrancer of the Court of Exchequer, preserved in the Record Office, disclose an extraordinary number of prosecutions between Michaelmas 1540 and Michaelmas 1541 for the offence of carrying grain abroad contrary to the prohibitions proclaimed. A considerable number of cases, particularly of the export of grain by aliens, followed in the succeeding year. It is difficult to explain the reason for the transfer to the the Statutory Court sitting in the Star Chamber<sup>3</sup> of one of these classes of offence, so commonly taken cognizance of by the Court of Exchequer, unless the inference may be permitted that, notwithstanding those prosecutions, the offence continued so frequent that the new tribunal was invoked for the greater terror of the offenders.

For centuries after the Conquest successive governments appear to have exercised no control over the exportation of grain. The earliest statute prohibiting it was in 1360, at the close of the war with France. In this, the royal prerogative to restrict export was clearly stated (34 Ed. 3, c. 20). In 1383, under Richard 2, a prohibition against export was ordered by the King in Council.<sup>4</sup> But permanent prohibition was not agreeable to the landowners, and in 1394 the Commons petitioned for its removal. A compromise was arrived at. By the statute 17 Ric. 2, c. 7 (1394) the King granted licence to all his subjects 'to ship and carry corn out of the Realm, except to his enemies, paying the subsidies and duties thereof due.' The form of the statute, which implies an admission of the royal prerogative to close the ports, deserves attention, and the claim is emphasized by the concluding proviso, 'nevertheless he (the King) will that his Council may restrain the said passage when they shall think best for

<sup>1</sup> P. 225.

<sup>2</sup> P. 277.

<sup>3</sup> See pp. xx-xxi.

<sup>4</sup> Rymer, 'Foedera,' vii. 368. De bladis non traducendis.

the profit of the Realm.' The practical working of the statute appears to have taken the form of a requisition for a licence upon all occasions, and to have resulted in the doctrine, as set out in the preamble of the next Act regulating exportation, 15 Hen. 6, c. 2 (1437), that 'by the law it was ordained that no man might carry nor bring corn out of the Realm of England without the King's licence.' Once more the agriculturists complained that the consequent low level of prices was injurious to their interests. The Act of 1437, passed at a time when the prerogative was weakening, abolished the licence. Being a temporary Act, it was renewed and made perpetual in 1445, and statutory prices were limited within which exportation without licence should be free (23 Hen. 6, c. 5). These prices were 6s. 8d. for wheat and 3s. for barley a quarter 'in the port where the wheat or barley is so shipped.' The Crown lawyers, however, never regarded the prerogative over the ports as abandoned, and during the reigns of Henry 7 and Henry 8 the export of corn was from time to time restrained by proclamation<sup>1</sup> upon military considerations. Beans, pease and malt were made the subject of licences, as well as wheat and barley. The rapacity of Henry 7 early discerned the resources available to the revenue from a revival of the issue of licences. Despite the express language of the Act of 1437, he issued, on February 17, 1486, a licence to two persons to export a thousand quarters of wheat,<sup>2</sup> at a time when wheat was as low as 4s. 6¼d. a quarter,<sup>3</sup> well within the statutory limit. It is probable that in this aggression on the part of the prerogative he was following precedent set by Edward 4, a sovereign of arbitrary policy.<sup>4</sup>

The conjecture may further be hazarded that this invasion of statute by prerogative was facilitated by the language of the Act regulating the conditions of export. It will have been observed that export without licence was only authorized where the price of wheat or barley was below the statutory limits 'in that port where the wheat or barley is so shipped.' Now the entries in Rogers' 'History of Agriculture and Prices' establish the fact, to be expected in an age when intelligence and merchandise alike travelled slowly, that in the same year, probably in the same month, the prices of wheat in

<sup>1</sup> J. Gairdner, *Letters and Papers of Rich. 3 and Hen. 7*, ii. 372. Proclamation of Hen. 8 in 1512, in *Brit. Mus. Harl. MSS.* 604, f. 130. See also *L. and P., Hen. 8*, iii. 2685. In *ib.* iv. 1260 is a letter from the Duke of Suffolk to Wolsey, dated April 11, 1525, upon the occasion of a projected invasion of France, recommending the

cessation of licences for the export of corn.

<sup>2</sup> W. Campbell, 'Materials for Reign of Hen. 7' (1873), i. 296.

<sup>3</sup> J. E. T. Rogers, 'Hist. Ag. and Prices,' iv. 296.

<sup>4</sup> The papers of Edward 4's reign not having been published, this must remain for the present a conjecture.



various localities differed to an astonishing extent. For example, the average price of a quarter of wheat in the years 1516-18 is given at 5s. 3½*d.*, 6s. 5*d.*, and 5s. 11½*d.* respectively.<sup>1</sup> But as the recorded entries show, in 1516 wheat was 9s. at Canterbury and as much as 10s. 6½*d.* was paid by the Wardrobe.<sup>2</sup> It is plain, therefore, that the statutory limits might be occasionally operative even with a low average price of wheat, and that a licence was an insurance against risk of forfeiture. Accordingly the licence system, as developed under Henry 8, adopted as a rule the principle of the statutes of Henry 6, and fixed limits of price within which the licences were available. These were generally the statutory limit of 6s. 8*d.*, but occasionally 6s.<sup>3</sup> It was more needful for the exporter to protect himself, seeing that the diligence of the customers and searchers of the ports was wont to be stimulated by a share in the seizures.<sup>4</sup> In this way the enforcement of the Acts facilitated their subversion, and the resumption by the Crown of its ancient claim to grant licences in any case was passed even without opposition, apparently without notice. The export of horses, cattle, sheep, &c., was prohibited in 1531 by statute.<sup>5</sup>

Butter and cheese were reckoned among Staple goods—that is, to be exported only to Calais and from the ports designated Staple ports in England. The consequence was that the Calais market was glutted, and, as the agriculturists complained, loss ensued, butter and cheese being ‘so tender merchandises that they cannot tarry their merchants.’<sup>6</sup> Parliament accordingly, jealous though it was of the prerogative of dispensation, passed an Act in 1425 authorizing the issue of licences by the Lord Chancellor for the export of these perishable commodities to other foreign markets.<sup>7</sup> The Chancellor, however, proved indisposed to grant licences freely, on the ground that to do so was against the policy of an Act of 1398,<sup>8</sup> passed in deference to the complaints of the Commons that such licences were to the ‘destruction of the Staple.’ A conflict, it is evident, was in progress between the agricultural and commercial interests, and the Chancellor, sensible of the importance to the Crown of the revenue derived from the Staple, supported the latter. On this occasion the landowners prevailed. The King, ‘considering that cheese and butter is a merchandise which cannot be well kept, nor tarry his

<sup>1</sup> Rogers, ‘Hist. of Ag. and Prices,’ iv. 288.

<sup>2</sup> *Ib.* iii. 88.

<sup>3</sup> L. and P. Hen. 8, ii. 2595, 2786, 2817.

<sup>4</sup> *Ib.* i. 2780, &c.

<sup>5</sup> See p. 231, n. 17.

<sup>6</sup> 3 Hen. 6, c. 4 (1425).

<sup>7</sup> *Ib.*

<sup>8</sup> 21 Ric. 2, c. 17 (1398).

Merchant, and will be greatly impaired by Vermin and Worms and is also tender and of so simple a price that it cannot well bear the costs of the Staple,' declared its export free. The proviso, however, was added 'that the King may restrain the same when it shall please him.'<sup>1</sup> Under Henry 8 this afforded an excellent opportunity of enriching the Treasury. Restraints were frequent, indicating paternal care for the King's subjects, while licences were innumerable.<sup>2</sup> Such a restraint occurred in 1544, in anticipation of an invasion of Scotland. Even 'special' licences granted by the Crown, presumably under the Great Seal, were revoked. The case of *Smythe v. Danckerd and others*,<sup>3</sup> in that year, was an information charging the defendant and others with evasion of this prohibition, and the customs officers of the port of Colchester with acting in collusion.

The available home supply having been ascertained, the internal traffic in corn regulated and exportation checked, there yet remained the problem of the prevention of corners, and the sale to the consumers at what, in the opinion of the local authorities, was a 'reasonable' price.

The cross suits of the *Bakers and Brewers of Andover v. Knyght and Knyght v. Gunter and others*<sup>4</sup> illustrate the jealousy felt by the government and the consumer of any attempt to raise the price of food. The rules of the Canon Law were more rigorously applied to articles of food than to other commodities. Purchase for resale, whether upon a large scale, known as engrossing, or by intercepting supplies on their way to market, called forestalling, and regrating, or resale in the same or neighbouring markets<sup>5</sup> were none of them operations held to justify a claim to profit. The ground of their condemnation was the doctrine, in which the Socialism of Marx has reverted to the analysis of the schoolmen, that labour was the sole constituent of value.<sup>6</sup> By a statute of 1349 (23 Edw. 3, c. 6) the remuneration of labour necessary to bring victuals to market is expressly provided for. The statute lays down that the sellers of victuals shall be confined to 'moderatum lucrum, non excessivum, prout distancia locorum a quibus victualia hujusmodi cariantur duxerit rationabiliter requiren-

*Bakers &c.  
of Andover  
v. Knyght.  
Knyght v.  
Gunter and  
Others.*

<sup>1</sup> 18 Hen. 6, c. 3 (1439).

<sup>2</sup> L. and P. Hen. 8, ii. 1445, 3696, &c.

<sup>3</sup> P. 277, *infra*.

<sup>4</sup> Pp. 206-218.

<sup>5</sup> 'Regratarii, regratatores. Qui res emunt ut possint pluris vendere et aliquid de justo et solito earum pretio insuper corradere.' Du Cange, ed. Henschel, s.v. These distinctions are set out in the

4 and 5 Ed. 6, c. 14, but had established themselves at an earlier date, as may be seen by the proclamations of Henry 8. For early uses of the word 'forestalling' see Henschel's edition of Du Cange, s.v.

<sup>6</sup> 'Arbeit ist unter allen Umständen der wahre Faktor der Wertherzeugung.' Endemann, 'Studien,' ii. 43.

dum.' The statute also conferred on municipal authorities generally power to deal with offenders, which implied the legality<sup>1</sup> of fixing the 'reasonable price,' a phrase to be presently discussed.

The defendant John Knyght in the first of these cross-suits was accused of 'making a corner' in corn at Andover by two methods. He had, in the first place, diverted corn which would otherwise have been sold in the Andover market and carried it elsewhere. This was a form of forestalling. Secondly, he had engrossed the corn in the market by giving fourpence or fivepence a bushel above the market price. Being forbidden by the authoirties of the town to continue this practice, he set up the trades of baker and brewer, contrary to a statute of 1363 making illegal the exercise by one person of more than one handicraft.<sup>2</sup> His object in so doing, it was contended, was to continue to engross. 'Where he baked one quarter, he bought ten quarters, the wiche should have come to the markt to be sold at reasonable prises.' The bailiffs of the town, perhaps ignorant of the statutory prohibition, enforced against him the Assize of Bread. They found his bread four ounces short weight in the penny loaf and three ounces short in a halfpenny worth of 'horsebread.' Beans, it may be noted, of which horsebread was composed, were high this year.<sup>3</sup> For this offence he was indicted before the justices of assize upon their circuit.

The Assize of Bread ('Assisa Panis') is an institution lost in remote antiquity. Its first statutory regulation was an enactment generally ascribed to 51 Hen. 3 (1266)<sup>4</sup> which remained substantially in force during five centuries. The fundamental principle of this measure was that the prices of bread and ale should vary according to the prices of corn. Weights being then expressed in money, the pound in money being the pound-weight of silver and the penny-weight in money the dwt. of silver, it was provided that when wheat should sell for 18*d.* a quarter, then 'wastel bread of a farthing, white and well-baked,' should weigh 4*l.* 10*s.* 8*d.* This was the minimum price of wheat, and one not realised in either the fifteenth or sixteenth century. The maximum was 20*s.* a quarter, at which price the wastel, or superfine white loaf, was to weigh 6*s.* 9 $\frac{3}{4}$ *d.* In the course of the fifteenth century these money-weights were translated into ounces, pence and fractions of pence, and are so set out in 'The Ordinance for the Assize and Weight of Bred in the Cite of London' printed in 'Arnold's

<sup>1</sup> See 'Select Pleas in Manorial Courts' (Selden Society, 1889), p. xxxviii.

<sup>2</sup> 37 Ed. 3, c. 6.

<sup>3</sup> J. E. T. Rogers, 'Hist. Ag. and Prices,'

iv. 258 (1532-33).

<sup>4</sup> 'Statutes of the Realm,' i. 199. Assisa Panis et Cervisie.



Chronicle.'<sup>1</sup> During the first three decades of the sixteenth century the average price of wheat was 6s. 6½d. per quarter.<sup>2</sup> With wheat at 6s. 6d. a quarter 'the ferthing whit lof coket'<sup>3</sup> should weigh 22¾ ounces and 1d.

By the statute of 1266, called 'Judicium Pillorie,' setting out the practice of enforcing the assize, a jury of twelve was to be sworn for weighing the bread and ascertaining its conformity to the prescriptions of the sliding scale. In the present case the proceedings are not distinctly set out, presumably because the justices of assize had been satisfied of their legality. Knyght, however, in the cross-suit, enumerates twelve persons, beside the bailiff, Ralph Gunter, who presented two bills of indictment against him for regrating. These bills, according to Knyght, were not found true bills. The complaint of the Bakers and Brewers simply sets forth that the bailiff in the presence of twenty persons weighed the defendant's bread, and finding it light laid an information against him to the justices of assize. These were, *virtute officii*, justices of the peace for the county, and jurisdiction had been given them in such cases by a statute of 1351 (25 Edw. 3, st. 2, c. 5). According to the Bakers and Brewers, the justices of assize granted an injunction against the defendant, forbidding him to bake, brew,<sup>4</sup> or buy grain for those purposes until authorized by the Lord Chamberlain, Lord Sandys, who was also High Steward of Andover, and Sir William Paulet, Comptroller of the Household, both of them justices of the peace for the county. 'And if he wold not so doo they enjoyned hym uppon the payne of fourtie pounds that he shuld appere in the Sterre Chambre.' These allegations Knyght ignores, and represents that Chief Justice Fitz-James intervened on his behalf. According to the complainants, he continued to bake, brew and engross. Thereupon the town draughted a bill of complaint under the town seal, which Lord Sandys 'sent unto your honorable counsell.' In his capacity of a justice of the peace, Lord Sandys next reissued in his own name the injunction of the justices of assize which appears to have expired at Michaelmas, 1533, at which time the defendant had been bound over by them, in default

<sup>1</sup> 'The Customs of London,' otherwise called 'Arnold's Chronicle' (1811), p. 49.

<sup>2</sup> Computed from Rogers, 'Hist. Ag. and Prices,' iv. 292.

<sup>3</sup> 'Coket' or 'Cocket' was the name of a loaf slightly inferior to the wastell or finest bread. Murray, 'Engl. Dict.' s.v. 'cocket.' 'A cocket shall weigh more than a wastell by v.' *Assisa Panis*.

<sup>4</sup> In the answer to Knyght's petition it was alleged that the custom of the town was for the town officials and the twenty-four to elect the Bakers and Brewers and make them find sureties to observe the Assize of Bread and Ale. This may have been the ground of this part of the injunction.

of obedience, to appear before the Star Chamber. It may be, however, that Lord Sandys was doubtful of his power to issue such an injunction, or, since neither Knyght nor the defendants Wallweyne and others mention it, the allegation may have been untrue. It is apparently common ground that the next step was the presentment of the defendant at a court leet 'for a Comyn regratour and engrossour of corn.' A fresh injunction, apparently by the bailiff of the town, was then issued to the same effect as the two which had preceded it. To this injunction, as to the others, Knyght paid no regard. The petitioners, therefore, beg the intervention of the Star Chamber.

In this conflict of statement as to matters of fact, it is out of the question to affirm any disputed proposition positively. All that can be said with safety is that the Star Chamber was resorted to by the Bakers and Brewers to prevent Knyght from baking and brewing and to punish him for engrossing, while Knyght invoked it for protection to himself and other inhabitants of Andover against abuse of authority and conspiracy to boycott.

The procedure of Lord Sandys in bringing before the Council—presumably the Council in the Star Chamber, commonly known as the Court of Star Chamber—the bill of complaint of the townsmen of Andover was, as we know from Hudson, in accordance with the practice of the time. It is contemplated in a petition of the Commons in 1406.<sup>1</sup> 'Item que pleise a nostre dit Seigneur le Roy commaunder ceux de soun Conseil qils ne traient devaunt eux pur y estre determinez aucunes matiers ne querelles determinables a la comune ley, si ce ne soit pur cause resonable et par advys des Justices.' Assuming the allegation to be true that the justices of assize had themselves bound over the defendant Knyght to appear in the Star Chamber, this last proviso may be taken to have been held satisfied.

It is to be observed that the part played by Lord Sandys certainly implied that he conceived the Star Chamber not to be limited in its jurisdiction by the Act of 1487 'Pro Camera Stellata.' It may be pardonable here again<sup>2</sup> to enumerate the seven spheres of jurisdiction, as set out by Hudson, the historian of the Court, assigned to the Star Chamber by that Act. They are: '1. Maintenances. 2. Giving of Liveries. 3. Having retainers. 4. Imbracery. 5. Jurors receiving money. 6. Untrue demeanors of sheriffs in false returns and pannels. 7. Routs and Riots.' None of these was touched by the present case. The conclusion is that Lord Sandys, as well as the

<sup>1</sup> Rot. Parl. iii. 587 b, and cf. Hudson, p. 143.

<sup>2</sup> See 'Select Cases in the Star Chamber' (Selden Society, 1902), lv.



justices of assize, conceived the Court of Star Chamber as invested with the indeterminate jurisdiction traditionally possessed by the King's Council.<sup>1</sup>

Even so it may be asked why these disputes, eminently of a kind determinable at common law, were brought before the Council at all.<sup>2</sup> The answer of Rychard Wallweyne and the other defendants to Knyght's petition demurs on this point in the common form that 'the mater theryn conteyned [is] determinable at the comen lawe and not yn this honorable Courte.' In the case in which Knyght is the defendant the solution appears to be that the offences for which he was cited before the Star Chamber were not primarily the common law offences of engrossing, &c., but contempts of constituted authorities. Knyght, in his turn, accuses Wallweyne and the other defendants of contempt of the Court of Chancery. Of contempts the Council had always claimed cognisance,<sup>3</sup> and the claim, as time went on, grew in emphasis and precision. 'I come to express,' wrote Hudson, early in the seventeenth century, 'the great and high jurisdiction of this Court (the Star Chamber) which, by the arm of sovereignty, . . . giveth life to the execution of laws. . . .'<sup>4</sup> 'For misdemeanors committed in any Court, the judges of that Court may punish it; so may the Court of Star Chamber also. . . .'<sup>5</sup> Although Courts do punish offences or misdemeanors, it is no *supersedeas* for this Court; but this Court will punish it notwithstanding, if they see cause.'<sup>6</sup> Hudson, it should be explained, strongly asserted the opinion that the Court of Star Chamber derived from the King's Council and was 'not founded by Act of Parliament in the reign of King Henry 7, a doating which no man that had looked upon the records of the Court would have lighted upon.'<sup>7</sup>

There were further reasons why resort was had to the Star Chamber in a case at first sight involving only trumpery personal issues. As other cases in this volume shew, notably the petitions against John Mulsho, the Court of Star Chamber, like the Court of Requests, was at this time invoked as the protector of the weak against the strong, of the commonalty against aristocratic oppressors. The attitude taken up by these Courts encouraged

<sup>1</sup> See 'Select Cases in the Star Chamber' (Selden Society, 1902), lxxi.

<sup>2</sup> During the great famine of 1527, justices of the peace were ordered by proclamation not only to try forestallers, regraters and engrossers, but also to enjoin them to appear before the Council. This was, however, a temporary and exceptional measure *in terrorem*. L. and P. Hen. 8,

iv. 3587, 3.

<sup>3</sup> Rot. Parl. 25 Ed. 3, 20, 16, vol. ii. p. 228. Sir F. Palgrave, 'The Original Authority of the King's Council' (1834), pp. 35, 36.

<sup>4</sup> 'Of the Court of Star Chamber' in 'Collectanea Juridica' (1792), ii. 107.

<sup>5</sup> *Ib.* p. 117.

<sup>6</sup> *Ib.* p. 118.

<sup>7</sup> *Ib.* p. 10.

this impression from a settled policy. It was the tradition of the Council. By an ordinance of the Council of 13 Rich. 2 (1389-90), the lords of the Council were to meet early to dispatch the bills of 'the people of lesser charge.'<sup>1</sup> In 2 Henry 6<sup>2</sup> (1423-24) the rule was laid down that matters determinable at the common law were to be remitted there—a plea, as will be seen, generally advanced by defendants before the Star Chamber—'but if so be that the discrecion of the counsaill feele to greet myght on that oon side, and unmyght oon that othir.' Further, the poorest suitor was to be heard first and to enjoy the gratuitous counsel of the King's Serjeant.<sup>3</sup>

Attention was called in the Introduction to the former volume of 'Select Cases in the Star Chamber'<sup>4</sup> to the importance of an Act of 1453 (31 Hen. 6, c. 2) in defining the jurisdiction of the Council, and thereby, as a consequence, of the Star Chamber. 'Extortions' and 'oppressions' are among the offences specially struck at by that statute. The Act had expired, but the Star Chamber maintained its tradition. Now, operations such as those imputed to the defendant Knyght were throughout the Middle Ages regarded as flagrant examples of extortion and oppression. The 'Statutum de Pistoribus,'<sup>5</sup> attributed by some to 51 Hen. 3 (1266-67), by others to 13 Ed. 1 (1284-85), describes forestallers as oppressors. 'But especially be it commanded on the Behalf of our Lord the King that no Forestaller be suffered to dwell in any Town, which is an open Oppressor of Poor People and of all the Commonalty,<sup>6</sup> and an enemy of the whole Shire and Country, which for greediness of his private gain doth prevent others in buying grain . . . oppressing the Poor and deceiving the Rich,' &c. His offence was against public policy, and of public policy the Star Chamber was the recognised exponent.

Nor, as the words just quoted shew, was this a matter upon which a serious conflict of interest existed between the poor and the territorial magnates. In an age when rents were stationary and when a large proportion of the soil of England was still in the hands of small freeholders, a factitious and temporary increase in the price of wheat benefited few except the farmer and the operator for a rise. The diversion of supplies from the market charged against Knyght threatened other pecuniary interests besides those of the consumer. Both to the Crown, as the source of privilege, and to the

<sup>1</sup> Brit. Mus. MS. Bibl. Cott. Cleop. F. iv. 1; Palgrave, pp. 79, 134.

<sup>2</sup> Rot. Parl. iv. 201; Palgrave, p. 81.

<sup>3</sup> Ib.

<sup>4</sup> Selden Society, 1902, pp. lx, lxiv, lxxi.

<sup>5</sup> Statutes of the Realm, i. 203.

<sup>6</sup> 'Qui pauperum est depressor manifeste' etc. ib.

grantees of the tolls of the markets, ample supplies to the markets were of importance. There exists in the Record Office a MS. draught of a bill for dealing with this offence, which sets out the landowners' point of view.<sup>1</sup> Its preamble runs: 'Where the Kyng our soveraigne lordes noble progenitours kynges of this Realm greatly regarding the welthe mayntenaunce and encrease aswell of the same Realm as the mayntenaunce of the auntyent Citees borowes townes and portes of the same not only licenced and by their letters patentes renewed and conformed by them specially that the same Citees borowes townes and portes shuld at dayes convenyent and tymes necessary and congruent have and kepe within the same markettes and feyres for the welthe and profite of their h[ab]itauntes and places therunto adjoynyng with courtes of pedispouders<sup>2</sup> to be holden within the same faires in case besynesses or variaunce then and there shuld happen to fall betwene partie and partie, and furder also gave and graunted to many and dyvers lordes aswell spirituall as temporell, and other noble men of the same Realme to many and severall their domynyons and lordships many like fayres liberties and Fraunchesses for their also benyfyte and avauntage into and at which markettes and fayres the commodyties plentuousness and habundance [as well] of catulles [as] off other wares graynes and merchandizes aswell of this Realme as also of other outwarde parties were brought and there uttered,' &c. It is possible that the High Steward of Andover, Lord Sandys, was in enjoyment of some such rights, and the prompter, on that account, to enforce the law rigorously upon an offender against his private interests no less than against the common weal.

It is an indication of the increasing wealth of the farming class, especially during the period of easy rents and rising prices, just before the dissolution of the monasteries, that they are frequently accused not only of withholding from the market, which might be expected, but also of engrossing and regrating. During the famine of 1527, the preamble of commissions authorising searches for concealed grain ran that 'certain farmers and others in the county of —— having sufficient grain both for their own households and to supply the market, do nevertheless, in the hope of scarcity, abstain from selling it.'<sup>3</sup> But that at that time the dearth was not factitious may be

<sup>1</sup> L. and P. Hen. 8, vii. 67.

<sup>2</sup> That is, of wayfarers, men of the dusty foot. See Murray, 'Engl. Dict.' *sub* 'Piepowder.' A piepowder court was 'a court of record incident to every fair or market, though fallen into disuse, of which

the steward of him who owns, or has the toll of the market, is the judge.' Wharton's 'Law Lexicon,' 6th ed. (1876), s.v.

<sup>3</sup> 1527, November 18. L. and P. Hen. 8, iv. 3587.



inferred from the circumstance that, though informations were invited, offenders were not to be found.<sup>1</sup> In 1532 and 1533 the Mayor of Norwich, writing to Cromwell, imputes the high price of corn to 'regraters who are great farmers.'<sup>2</sup> 'You and others of the Council,' he writes to the same minister in March 1533, 'have taken great pains to redress and reform engrossing corn and wool. It is now more used than ever. Every farmer of substance that has sufficient of his own buys all he can get.'<sup>3</sup> Knyght, it will be remembered, was a farmer on a large scale, and was at this time, according to the complainants, practising in Hampshire the operations reported in East Anglia. It can scarcely be doubted that the Council, at this time engaged in a vigorous policy of repressing a growing tendency, proved little disposed to deal leniently with this defendant.

There is another feature of the case, as stated by the Bakers, Brewers, &c. of Andover against Knyght, of interest to the student of economics. The pretext of the proceedings against him was that he sold short weight of bread. This is probably true, and the elaborate precautions taken by municipalities against short weight indicate that it was supposed to be a common offence. At this day the same economic phenomena are witnessed in France. M. Yves Guyot, the French minister, writing on the operation of the Corn Law of 1887 raising the duty of three francs the quintal on imported wheat to five francs, or 8s. 8d. the quarter, says: 'The mayors have the right to assess, from one day to another, the price of bread at whatever rate they like. The baker has no redress against this arbitrary power. . . However, it is impossible to force bakers to ruin themselves and become bankrupt with a light heart in order to secure rents to landowners. Bakers submit, diminish the quantity of flour, use more water and bake the bread less well.'<sup>4</sup> Down to the nineteenth century the Assize of Bread continued to produce just the same results in England, as may be seen from the evidence on June 13, 1813, before the Committee on the Corn Laws.

These examples illustrate the system upon which the central administration, in co-operation with local authorities, dealt with the not infrequently recurrent scarcities. They shew, at the same time, the difficulties attendant upon the method of fixing prices arising from the evasions of the corn dealers, the concealments of their resources by the corn growers, and the smuggled export to which

<sup>1</sup> L. and P. Hen. 8, iv. 3822, 3587, 4998, 5857.

<sup>2</sup> Ib. v. 1526.

<sup>3</sup> Ib. vi. 284.

<sup>4</sup> 'The French Corn Laws,' translated by J. W. Probyn (London, 1887), p. 27.

the fixing of prices gave rise. In addition, however, to its measures for the control of the internal trade, government and the municipalities, especially the City of London, negotiated for supplies from abroad. This branch of administrative intervention has of necessity been cursorily dealt with, as there are no germane suits by which to illustrate it. Nevertheless, it must not be left out of account in estimating the effectiveness of the government's policy. As Adam Smith observes: 'When the government, in order to remedy the inconveniences of a dearth, orders all the dealers to sell their corn at what it supposes a reasonable price, it either hinders them from bringing it to market, which may sometimes produce a famine in the beginning of the season, or, if they bring it thither, it enables the people, and thereby encourages them, to consume it so fast as must necessarily produce a famine before the end of the season.'<sup>1</sup> The cases printed in this volume to some extent illustrate the truth of this criticism, though Adam Smith was probably unacquainted with the methods of the sixteenth century, and on that account omitted the care of the government first to ascertain the home supply, with reference to which the directions to furnish the market were given. Nor did he consider that supplies from abroad tended to prevent a 'famine before the end of the season.' His argument treats the home stock as the sole source of supply, and therefore the supply as a fixed quantity.

A word must be added upon the problem, which frequently presented itself to the Council, of providing in times of scarcity for the victualling of Calais. The first and most obvious policy was to treat Calais as part of England and allow unrestrained export to it. The draught bill printed in the Appendix,<sup>2</sup> for restraining the export of butter and cheese when above a certain price, contains a proviso in favour of Calais and its dependent fortresses of Guisnes and Hammes. The 'Acte of proclamacion to be made concernyng victualles' (25 Hen. 8, c. 2), passed in 1534, and perhaps suggested by this document, though it abstains from fixing statutory limits of prices, contains a like proviso. Advantage was taken of this by shippers, when prices ruled high on the Continent, to export wheat nominally for Calais, but to deliver it elsewhere.<sup>3</sup> Sometimes Calais itself was made nothing more than a conduit for other markets.<sup>4</sup> To prevent these evasions three methods were adopted. The one was

<sup>1</sup> 'Wealth of Nations,' bk. iv. c. v.

<sup>2</sup> P. 290.

<sup>3</sup> For example, Sir E. Ryngeley to Cromwell, June 22, 1539. See p. 295. L.

and P. Hen. 8, xiv. i. 1146. The practice was, however, no new one

<sup>4</sup> Ib. v. 1703 (1532).



that which proved so ineffective in its operation in *Smythe v. Danckerd*, the issue of a certificate by the customer at the port of shipment of the cargo shipped and its destination. Such a certificate, called a 'cocket,' is mentioned in the example in Appendix II.<sup>1</sup> of the certificate of discharge at the port designated in the cocket. Since, however, provisions discharged at Calais did not always remain there, the government at home called upon 'the Deputy and head officers' to enter into recognisances to prevent their being carried out of the town.<sup>2</sup> Against this compulsion these officials naturally protested. Calais was a port at which merchant ships victualled, while meat was brought into the town by land, in exchange for other provisions.<sup>3</sup> Moreover, the practice of issuing 'placards,' or licences, the expense of which discouraged shippers, checked the supplies.<sup>4</sup> Their remedy was that export from England should be unrestrained. By way of compromise the Council at home suggested in 1534 that a 'rate,' or estimate, should be made of the necessary consumption of Calais, and that certain ports should be assigned for its supply. Sandwich, Dover, and Hythe would, it was thought, be enough for beeves, muttons, wheat, and malt; a port might be added in each of the three counties Essex, Suffolk, and Norfolk, and, allowing free export from London, a sufficiency would be secured. To this the Council of Calais objected that, limited by estimate, the town might, in the event of a chance destruction of its stores, be reduced to famine.<sup>5</sup> The government at home was, in fact, reluctant to lose the revenue derived from the issue of licences. The same difficulties occurred as to meat, and they were constantly renewed. At Easter 1541, 'there was but one ox in the town,'<sup>6</sup> and the Council of Calais was still petitioning 'to be victualled freely after the old fashion.'<sup>7</sup> The government was, in short, destitute of any settled policy. Its regulations were temporary shifts, in which the needs of Calais seem often to have been esteemed secondary to the exigencies of the Treasury.

Petition  
of the  
Butchers'  
Company.

Next in importance to the supply of corn came the supply of meat. The butcher in his capacity of a salesman was exposed to the suspicion with which the Church, and through the Church, the State, regarded the merchant as one whose disposition it was to earn a livelihood by speculation rather than by manual labour, and to

<sup>1</sup> P. 292.

<sup>2</sup> L. and P. Hen. 8, v. 1703 (1532).

<sup>3</sup> Remonstrance of the Council of

Calais, ib.

<sup>4</sup> L. and P. vii. 6 (1534).

<sup>5</sup> Ib. xvi. 808.

<sup>6</sup> Ib. 1510.

<sup>7</sup> Ib.

pursue gain for its own sake rather than for the help of others.<sup>1</sup> Among the criteria of mercantile morality was this, that the price to be charged by the seller should be such as would serve to maintain his household, and not the maximum obtainable. St. Thomas Aquinas pronounced the calling of a merchant lawful ‘ubi quis intendit ad lucrum non quidem ut finem ultimum laboris, sed tamquam finem necessarium ad sui et suae familiae sustentationem, aut tamquam honestum, etsi non semper simpliciter necessarium.’<sup>2</sup> The dealer in provisions was, even less than the general merchant, at liberty to wring what price he could in ‘the higgling of the market’ from the necessity of the purchaser.<sup>3</sup> But the aim of the vendor, the support of his household, was a subjective criterion. It needed to be supplemented by an objective criterion, and this was found in that which the Roman law called ‘justum pretium.’ What that ‘justum pretium’ might be was determinable by ‘communis aestimatio,’ which was not the market price, but the value set upon the commodity by the public authority.<sup>4</sup> Where the public authority had not definitely fixed prices, the normal prices in the neighbourhood were to furnish the index. These were, in fact, the guide for the public authority, as may be seen from the statute 23 Ed. 3, c. 6, already mentioned, which laid down that victuals should be sold at reasonable prices: ‘Item; quod carnifices, piscenarii, hostellarii, brasiatores, pistores, pulletarii, et omnes alii venditores victualium quorumcunque teneantur hujusmodi victualia vendere pro precio rationabili, habita consideratione ad precium quo hujusmodi victualia in locis propinquis venduntur, ita quod habeant hujusmodi venditores moderatum lucrum non excessivum, prout distancia locorum a quibus victualia hujusmodi cariantur duxerit’<sup>5</sup> rationabiliter requirendum.’

In the sale more especially of the necessities of life, therefore, the State regarded the consequences of the transaction to the consumer and the general moral attitude of the vendor. Accordingly the statutes teem with condemnations of the disposition which, in their view, led to the exaction of high prices. The earliest statute of

<sup>1</sup> ‘Handel ohne weiter Arbeit auf blosser Spekulation wird verdammt’; W. Endemann, ‘Studien in der romanisch-kanonistischen Wirthschafts- und Rechtslehre’ (Berlin, 1883), ii. 16.

<sup>2</sup> Ib. ii. 15 cp. id. i. 53. Aquinas says, ‘Oportet quod perfecta civitas moderate mercatoribus utatur.’ Contzen, ‘Geschichte der Volkswirtschaftlichen Literatur im Mittelalter,’ p. 89.

<sup>3</sup> ‘Vitayll, being a necessary sustenance for the bodye, shuld not be esteemed at the

sellers libertie, lest he shuld abuse his merchaundise and enforce men for want to bye at his pryce.’ Henry 8’s instructions to his plenipotentiaries in the Netherlands, April 19, 1532, printed in Schanz, ‘Englische Handelspolitik,’ ii. 266.

<sup>4</sup> ‘In dem pretium legitimum hatte man unmittelbar das pretium justum’ Endemann, ii. 38; cp. ib. 35. See also W. J. Ashley, ‘Economic History,’ i. 142.

<sup>5</sup> Sic; sed qu. duxerint.

Henry 8's reign inspired by a desire for cheaper prices of meat was passed in 1529, 21 Hen. 8, c. 8, under the title of 'An Acte for the bringinge upp and rearinge of Calves to encrese the multitude of Cattell.' Its preamble recites that 'of late yeres passed the breders of such Calves of their covetous myndes have used to selle their Calves young suckyng<sup>1</sup> to Bouchers, waynyng rearyng bryngyng up fewe or none, whereby the encrese of olde cattell and also the encrease that shuld or myght have come or growen of the same is marvelously mynysshed and decreased, in such wyse that great derth of cattell and other vyttell hath and doth dayly spryng growe contynue and arise throughout this realme, not only to the great enhaunsyng of the pryces of beffes and all maner of vyttell, but also to the greate mynysshing and enpayryng of good hospitalitie and extreme undoyng of the Kynges poore and nedy subjectes within the same.' This care for the poorer classes in particular is emphasised by the Tudor statutes. The 'Acte for Fleshe to be sold by weight,' 24 Hen. 8, c. 3 (1533), which is the principal subject of the Butchers' Petition, is a striking instance. Its preamble incorporates the originating petition: 'Complayneth to your moost excellent Highnes your poore Subjectes of this your Realme, that where all maner of Vytailles before this tyme hathe ben sold to your said Subjectes at prices convenient, so that all your subjectes & in especiall the poore persones myght with there crafte or bodilie labour bye sufficient for the necessitie & sustentacion of them there Wyffes & Childern; But nowe graciouse Lorde all vitale & in especiall beoffe mutton porke & veale whiche is the common fedyng of the meane & poore persones arr so solde at so excessyve price that your said nedye Subjectes can not gayne withe ther labour & salarie sufficient to pay for there convenyent vitale & sustynance,' &c. The language of this preamble is echoed by the legislature in the following year, when enforcing this Act. It is apparent that this concentration upon the ethical aspects of trade tended to obscure appreciation of its economic conditions.

Modern research has verified the allegation of the preamble as to the consumption of meat. 'Beef, generally oxbeef, is the diet of the whole year, veal of the spring,' is Thorold Rogers's description of English fare during the fifteenth century.<sup>2</sup> The records of the

<sup>1</sup> Walter de Henley, writing in the thirteenth century, prescribes eight weeks as the time to be allowed to a bull-calf to suck, seven weeks for a ewe-calf. Walter de Henley's 'Husbandry,' ed. by E. Lamond (1890), p. 24.

<sup>2</sup> 'History of Agriculture and Prices,' iv.

325; cp. W. Denton, 'England in the Fifteenth Century' (1888), p. 210, and Shakespeare, Hen. V. act iii. sc. 7, 'Give them great meals of beef' &c., on which see Stevens and Malone. See also Froude, 'History of England,' chapter i. Schanz, 'Englische Handelspolitik' (Leipzig, 1881),



consumption of meat in Cardinal Wolsey's household shew the large place taken by it as an article of subsistence. The household consisted at a date unnamed, but, it is to be presumed, when the Cardinal was at the height of his magnificence, of 429 persons.<sup>1</sup> It is by no means certain that this was the number of those for whom the following provision was made. In October 1528, '430 oxen, 181 muttons; 728 ditto within 1 November; 621 ditto between Easter and 1 August; 363 ditto between 1 August and 30 September.'<sup>2</sup> The household expenses for the Duke of Richmond, son of Henry 8, for nine months, June 12, 1525, to March 31, 1526, included 176 oxen, 916 sheep and 251 calves, besides an indefinite number of hogs and porkers.<sup>3</sup> Even his yeomen had beef, veal, and 'a baken meat' for dinner.<sup>4</sup>

Control over the price of meat, as of other necessities, was exercised by the authorities of the towns. But it is no matter for surprise that the tendency towards statutory uniformity, which marked the policy of the Tudors, should assert itself in the case of meat. The intervention of the central government was, in fact, part of a systematic endeavour to counteract by general provisions the rise of prices. Since the opening of the sixteenth century the price of oxen had been steadily rising. During the decade 1511-20 it had averaged 23s. 2d.; for the following ten years the average rose to 30s. 10½d.<sup>5</sup> In 1527, a year of exceptional scarcity, meat was at triple its average price. The various causes are summed up in a paper, presumably laid before Wolsey, under the title 'Communications as to the dearness of all manner of victuals.'<sup>6</sup> Among these are rot and murrain, the sequence of 'three or four marvellously dry summers,' so that, according to the writer, 'in many parts of England cattle had to be driven five or six miles to water,' the lack of fodder which 'prevented husbandmen from breeding lambs and calves,' and the practices of regrating and forestalling. 'In Wales, Cheshire, Lancashire, and the North, where beasts are bred, no grazier can buy either lean or fat beasts, except at third or fourth hand.' The 'Acte concernyng Fermes and Shepe,'<sup>7</sup> passed in 1534, imputes the high prices of 'catall and

i. 630, n. 3—gives a calculation of the consumption of meat in London, dependent upon a guess of the number of inhabitants at 170,000.

<sup>1</sup> L. and P. Hen. 8, iv. 6185.

<sup>2</sup> Ib. 5967. It is unfortunate that the oxen and sheep are not distinguished in the later accounts.

<sup>3</sup> Ib. 2063.

<sup>4</sup> Ib. p. 678. I pass over poultry and other victuals as not germane to this subject.

<sup>5</sup> Rogers, 'History of Agriculture and Prices,' iv. 355.

<sup>6</sup> L. and P. iv. 3761 (1528).

<sup>7</sup> 25 Hen. 8, c. 13.



in especial shepe' to the engrossing of farms and the rise of rents.

To these causes there were some who added the exportation of live stock. In the illuminating Dialogue, written by Thomas Starkey, Henry 8's chaplain, Lupset, one of the interlocutors, complains that 'ther ys conuehauns of many thyngys necessary to the vse of our pepul, more then may be wel sufferyd, both of catayl and corne, wol, tyn, and led and other metallys,' &c.<sup>1</sup> To this mischief government addressed itself. The preamble of the statute 'ayenst conveyance of Horses out of this realme,'<sup>2</sup> passed early in 1531, recites that 'meny Oxen Steres Kyne Calves and Shepe ben dayly conveyed and caryed out of this realme . . . which causeth greate scarcyte of Vitaill and maketh Catell and Vitaille to be solde within this Realme at moch greater pryces not only to the greate hurte of the Kynges Hyghnes in his provisions, but also to the greate hurte and impoverysshement of the Kynges Subjectes within this Realme.' To prevent this, it was forbidden to export any cattle or sheep without a special licence under the Great Seal. The prohibition was renewed early in 1534 by the 'Acte of proclamacion to be made concernyng victualles.'<sup>3</sup>

Since the meat supply could not be reinforced by importation, nothing more could be done than to check waste.<sup>4</sup> The Act of 1529, already mentioned, which declared its object to be 'to encrese the multitude of Cattell,' forbade the killing and offering for sale of any calf calved between January 1 and May 1, in any of the three years 1530, 1531, or 1532. A month after its expiration there was passed, in February 1533, 'an Acte to contynue and renue the Acte made against kylling of calves,'<sup>5</sup> extending it for two years from January 1, 1534, on account of the 'greate benefitte and commoditie' resulting from it. The price of calves, to judge by Rogers's Tables,<sup>6</sup> certainly shews a fall. In 1528 it was 3s. 4d.; but it had fallen in 1529 to 2s. 2½d., before the Act of that year came into operation. For the three years during which the Act was in force, 1530-32, it was at 2s. 6d., 2s., and 3s., the last price leaving the effectiveness of the Act questionable. That the prohibition was effective is, however, assumed by the renewing Act of 1533. Nevertheless, we have

<sup>1</sup> 'England in the Reign of Henry 8,' pt. ii. p. 93. Early English Text Society, 1878.

<sup>2</sup> 22 Hen. 8, c. 7 (1531).

<sup>3</sup> 25 Hen. 8, c. 2 (1534).

<sup>4</sup> Opinion was sharply divided as to

the effect of inclosure, some holding that it encouraged the breeding of cattle. See Starkey's Dialogue, p. 97. The policy of the government was to oppose it.

<sup>5</sup> 24 Hen. 8, c. 7.

<sup>6</sup> 'Hist. Ag. and Prices,' iv. 352.

evidence that it was nugatory in Wales,<sup>1</sup> possibly because the second section of the Act reserved to the Lords Marchers, instead of to the informer, as in England, the half of the penalty of 6s. 8d. following upon conviction. In London, at any rate, though not in the country, the renewal of the Act was deprecated by the butchers.<sup>2</sup> Nor was it systematically enforced. The renewal Act was to run during two years from January 1, 1534, but a letter to Cromwell from the Mayor of Norwich in 1535 shows that in 1534 a licence had been granted to order the butchers to bring calves to market, of which licence the mayor prays a renewal.<sup>3</sup>

The calf which by the Acts it was prohibited to kill was 'any manner of young suckyng calfe' calved between January 1 and May 1. Another Act of the same session of 1533 acquaints us with one effect of the prohibition to kill calves, 'whiche Acte was devysed to the entente that Calves ones weyned shuld as at that tyme was supposed not to have ben put to slaughter before they were of convenyent yeres and mete for beoffe, whereby myght have growen the gretter plentie of beoffes and at meaner prices within this Realme to the increace of the common weale of the same; yet neverthesse dyvers personnes more regarding their private lucre and singular profite and gayne than the common weale of the said Realme, have used syns the making of the saide acte and yet doo to kill yonge beastes called Waynlynges Steres Bullocks and Hefthurs of one or two yeres old or litle more, by meane wherof a greate parte of the benyfitte that els shuld have followed of the said acte hath ben frustrate and void.' Accordingly, the renewal Act was reinforced by another statute forbidding butchers to kill weanlings under two years old.<sup>4</sup>

The government, however, was not content to wait until time had rendered these measures effective to increase the supply of beef. Always disposed to assume that the enhancement of prices was the deliberate work of individual greed, it adopted the time-honoured course of restraining them by authority. In the same session of 1533 'an Acte for Fleshe to be sold by weight' was passed.<sup>5</sup> As this Act is the subject of the petition printed on p. 221, it will be necessary to examine it in detail.

The Act, after a preamble expressive of concern for the poor

<sup>1</sup> L. and P. v. 991 (May 3, 1532).

<sup>2</sup> Ib. 1216 (August 6, 1532).

<sup>3</sup> Ib. iv. 318. Reynold Lytylprow to Cromwell.

<sup>4</sup> 24 Hen. 8, c. 9 (1533). An Acte agaynst kylling of yong beastes called

Weyndlynges. 'To endure to the nexte Parliamente.' It was extended by 31 Hen. 8, c. 7, 33 Hen. 8, c. 7, 37 Hen. 8, c. 23, and 1 El. c. 18, being finally allowed to expire in 1562.

<sup>5</sup> 24 Hen. 8, c. 3 (1533).

consumer, proceeded to fix the price of beef and pork at a maximum of a halfpenny the pound and that of mutton and veal at a halfpenny and half a farthing. The legs and offal might be sold at a lower price as determined by free bargain. In order to prevent evasion, sale by weight was made compulsory. Power was reserved for the Lord Chancellor, the Lord Treasurer, the Lord Privy Seal, the Lord President of the Council and the two Chief Justices of the King's Bench and Common Pleas, or five, four, or three of them to fix lower, but not higher, prices at their discretion. It will be noted that the first four constitute the official membership of the Court of Star Chamber as prescribed by the amending Act of 1529 (21 Hen. 8, c. 20), to be reinforced by the summons of a bishop and a temporal Lord of the King's Council and of the two Chief Justices. No limitations of time or place are imposed upon these august authorities in the exercise of their jurisdiction for fixing prices. It is, therefore, the more surprising that the same powers are given to justices of assize in their circuits, to justices of the peace, to municipal officers generally, and to 'all other persones havynge lafull auctoritie before the makeing of this presente Acte to sette price of Flesshe,' and to punish offenders.

A letter preserved among Cromwell's correspondence perhaps exercised an effect in determining the prices authorized.<sup>1</sup> Cromwell had evidently been consulting the authorities of the City as to the effect of the Act of 1529, the policy of its renewal, and the price at which beef could be sold. Representations had been made that 'foreign butchers'—that is, butchers not free of the City—sold more cheaply than the butchers of the City, that the price was kept up by what in modern days is known as a 'ring.' The Lord Mayor's answer to this was that the foreign butchers bought unwholesome meat, which accounted for its cheapness. Cromwell's correspondents deny this. 'This day there came plenty in from the country, between 7 and 9 o'clock, and the foreign butchers offer the people the fore quarters of beef for a halfpenny a pound, and the hind quarters for a little more. . . . If the London butchers were in as good mind to the continuance of the Act as the country butchers are, this business had not needed.'

The objections advanced by the London butchers may be gathered in part from another statute, 'An Acte licensyng the Bochers of London to kyll theyr Cattell within the Walls of the same Cytie.'<sup>2</sup>

<sup>1</sup> William Roche, Richard Reynold 6, 1532. L. and P. v. 1216.  
and Thomas Wattes to Cromwell, August <sup>2</sup> 24 Hen. 8, c. 16 (1533).



This was the third Act passed in the session of 1533 by way of supplement to the prohibition of the slaughter of calves. The preamble recites a statute of 1489<sup>1</sup> suppressing the killing of cattle within the City of London out of regard to the public health: 'Sythens the whiche Acte so made the sayd Bochers at theyr great and ymportunate costes and charges have not onely turned the forsayd course of the waters<sup>2</sup> from the sayd parysshes by wayes and vaultes under the grounde so that nether thenhabitauntes of the sayd parissches nor eny other the Kynges Subjectes have cause to complayne theym of any anoyaunce by the sayd Bochers made or don.' Regulations had also been made to prevent nuisances. 'And iff the said Bochers shuld styll be compellyd to kyll their vitall without the said Cytie . . . notwithstanding the great charge that they have don in makynge of the same vaultes for amending of the anoysaunces above rehersed, then by the occasyon of cariage and recaryage of the sayd vytall by them to be killed, to and froo to their houses the pryce of flesshe by them solde is lyke therby to be enhaunsed to the damage of the Kynges people.' Upon the petition, therefore, of the butchers of London the Act was repealed and they were again at liberty to kill their meat within the precincts of the City. This concession was, doubtless, held to compensate them for being compelled to accept the prices at which the 'foreign butchers' were offering their meat. The pressure of competition had already driven butchers to transgress the prohibition. In the King's Remembrancer Memoranda Rolls of the Exchequer for Easter Term, 1532, preserved in the Record Office, several cases occur of prosecutions of butchers for killing cattle within the walls.

In 1533 Parliament rose on May 15, and on July 3 the King and Council ordered the Mayor of London to proclaim the Act 'for Fleshe to be sold by weight' in the usual manner and to fix up the authorised prices in public places.<sup>3</sup> The three statutes, it was already patent, were ineffective to counteract economic conditions. The butchers were ready to complain that the prices charged by the graziers from whom they bought were such as to render them unable to retail at the statutory rates. Accordingly the proclamation calls upon the graziers, wholesale dealers and farmers to sell at a price which shall enable the butchers to observe the statutory limitations and yet have

<sup>1</sup> 4 and 5 Hen. 7, c. 3.

<sup>2</sup> That is, the open drains in the streets, of the fouling of which the preamble complained.

<sup>3</sup> See Appendix, p. 297 *infra*. The mayor at the same time further endeavoured to promote the supply of meat and keep prices down through competition by

admitting 'foreign butchers' to Leadenhall market (John Stow, 'Annales' [ed. 1631], p. 568). That this admission was only temporary appears from the 'Chronicle' of C. Wriothesley (2 vols., Camden Society, 1875, 1877), who speaks of admission as having first taken place on September 15, 1546 ('Chron.' i. 175).



a reasonable profit for themselves. Disobedience to the proclamation was menaced with punishment. Vague threats of this sort proving ineffective to the country graziers, the next step was taken in August, in the form of a circular to the justices in various counties, authorizing them to summon 'all suche persons as be reputed . . . notable grasiours and that have any' quantity of meat in their hands, warning them to comply with the Act; and in case of obstinacy 'we doo . . . auctorise you . . . to take vp and put to sale beef, mutton, and veal at the statute rate to supply the wants of the shire, and also of the city of London, as request shall be made to you.'<sup>1</sup>

Apparently the reports from the country justices were to the effect that the graziers were obdurate. A certain number were summoned before the Star Chamber by the butchers of London and on November 29 were solemnly admonished by the Court.<sup>2</sup> The Act as to the sale of meat by weight was, it will be remembered, silent as to wholesale prices. The Council was therefore driven to the figment of constructive wholesale prices. The graziers were to sell 'at such prices as ys ment by the Acte.' Upon refusal, the butcher complaining was to lodge an information against the delinquents, stating the prices so refused. The Council also endeavoured to suppress the middleman, whose business it was not to breed but to buy and sell again. Against this proceeding, involving no expenditure of labour on his part, the law set its face. It was the offence of regrating, and its practice, already a breach of the law, was specifically forbidden by the Council.

That these efforts to enforce the observance of the statute were futile appears from the issue of 'A Proclamation concerning Bouchers' put out on January 29, 1534. This time the butchers of London, rather than the graziers, were denounced as the delinquents, the Council, it may be supposed, assuming that its exhortations to the graziers in November had been effective. By the 'Acte for Fleshe to be sold by Weight' of 1533 the penalty had been a forfeiture of 3s. 4d. for every default. Obviously this penalty was not a deterrent. But, since no other was authorised by statute, the Council fell back upon the prerogative.<sup>3</sup> Not only will the statutory penalty be exacted in

<sup>1</sup> L. and P. vi. 1052 (1533); cf. ib. 574. See Appendix, p. 301 *infra*.

<sup>2</sup> See the memorandum of the Council, dated November 29, 1533, p. 205 *infra*. Those graziers summoned for regrating appear to have been nine from Middlesex, nineteen from Essex, three from Bedfordshire, four from Sussex and Kent, thirty-

seven from Bucks, Oxon, Leicestershire, Staffordshire, and Northants, one from Herts, besides suburban and London butchers. Star Ch. Proc. Hen. 8, Bundle xv. Nos. 188, 189; Schanz, 'Englische Handelspolitik,' i. 632, n. 3.

<sup>3</sup> See Appendix, p. 302 *infra*.

the event of infraction of the Act, but the offenders will also be compelled to pay such other fines as the King and Council may impose. Municipal authorities are ordered to arrest and imprison offenders against the statute.

Parliament met on January 15, 1534. Meat continued dear, and by February the government had determined, since proclamations had proved so ineffective, to resort to legislation once more. It expressed its conviction that failure had been due to insufficient powers of punishment accorded to the authorities.<sup>1</sup> This time the graziers and butchers were both included in one statute. The powers given to the justices and municipal authorities by proclamation were now made statutory. Refusal on the part of butchers to sell at the statutory prices was made punishable by imprisonment until the pecuniary penalties imposed by the Act of 1533 had been paid. In addition, the municipal authorities were empowered to seize the meat for which the statutory prices had been refused and sell it at those rates, the money received to go to the butcher.

Having dealt thus summarily with the butcher, Parliament next proceeded to legislate for the grazier. He was to sell his beasts at such price as that the butcher would be able to sell by retail at the prices fixed by the Act. Upon complaint of refusal by the grazier or farmer to do this, the mayor or, in the country, the justice might appoint a jury of two, three, or four persons to fix the price. In default, both these persons and the recalcitrant graziers were to make appearance in the Star Chamber within forty days. The selection of the authorities for fixing prices is thus evidently connected with this Court, and accounts for the fact that, although not within its jurisdiction by the statute of Henry 7, the petition of the Butchers' Company was filed here.

Government could not, however, lose sight of the contingency that graziers and butchers might be driven from their trades by economic factors independent of their volition. A clause was added in which occurs a tardy recognition of economic necessity, 'for asmoche as beoffys muttouns veales and porkes by many occasions fortune in somme one yere or in some one tyme of the yere to be more scarce or more dere than at any other, by meane wherof the grasiers and bochers in suche a dere tyme shall not be able to aforde the same at such prices and ratis as when they be in more plentie and better chepe.' In such a case, the King is empowered to suspend the Acts by proclamation, either locally or generally, and wholly or in part, so

<sup>1</sup> 25 Hen. 8, c. 1 (1534). An Acte concernyng Graziers and Bouchers.

that the butchers may either be free anew to 'retayle without weight as heretofore hath byn accustomed,' or to sell at prices to be proclaimed. Further, in order at once to ease the market, the Act of the previous year renewing the restriction upon the killing and sale of calves was suspended by statute as from March 12, 153 $\frac{3}{4}$ , to January 1. 153 $\frac{4}{5}$ , after which it was to be continued for two years.' <sup>1</sup>

It is evident that assessments made not upon the basis of market value as determined by demand and supply, but upon that of the statutory maximum for retail sale, must have been as unsatisfactory to the cattle dealers and breeders as the original Act of 1533 had been to the butchers. The Acts were, in fact, injurious to the entire agricultural interest. They naturally enlisted against them the opposition of the landlords. 'Quis custodiet ipsos custodes?' must have been the query of the framers of these measures. Who could insure that the country magistrates, whose interest as landowners was that of the recusant farmers, would enforce the Acts against themselves? The difficulty serves to illustrate the entanglements into which a legislature plunges in attempting to control, either directly or mediately, the prices of commodities. Neglect by the justices to execute the Act was made punishable by a fine of 40s., to be divided between the Crown and the informer.

For a few months Parliament rested from its labours, but on October 23, 1534, a proclamation confessed defeat. It was proclaimed that, notwithstanding the statute, butchers in London and the suburbs might, until St. John Baptist's Day following—that is, June 24, 1535—sell beef and pork at a halfpenny and half a farthing, and mutton and veal at three farthings a pound.<sup>2</sup> This preferential treatment of the London butchers, justified though it might be by the reasons set out in the petition of the Butchers' Company, doubtless provoked discontent among butchers in the country.<sup>3</sup> Among the 'Letters and Papers' is a letter dated March 6, 153 $\frac{4}{5}$ , written by Sir William Sandys, lord Sandys, to Cromwell from 'the Vine' in Hampshire. The writer says that 'divers victuallers who have been abroad to make provision of cattle against Easter, complain of the graziers that they can buy no cattle at reasonable rate according to the statutes, to their great hindrance. Else they must have licence to occupy at large [that is, to trade without restrictions] as in times past.' It is, of course, possible that, as near London as Hampshire, the graziers

<sup>1</sup> This Act was probably passed in February 1534. L. and P. vii. 399.

<sup>2</sup> Ib. vii. 1294.

<sup>3</sup> See the letter of Reynold Lytelprow to Cromwell, probably written about February 1535, ib. viii. 318.



readjusted their prices so as to secure some of the margin in excess of the statute allowed to the London butchers by the proclamation of the previous October 23. Within eight days of Lord Sandys' letter another proclamation followed, dated March 14, which in effect made the relaxation of October 23 general. Its language suggests that it was inspired by Lord Sandys, though the same complaint was no doubt universal.<sup>1</sup> It is expressed to be made 'that the bouchers and other selling fleshe by retaile . . . should not have anie cause reasonable to forbere their provisions for such vitall to be sold by retail against this holy time of Easter.'<sup>2</sup> The additional half-farthing a pound was, therefore, as in the case of the proclamation of October 23, authorized until June 24, 1535.

That Parliament was beginning to falter in its belief that it was able to control prices appears not only from the implication involved in the clause authorizing proclamations in mitigation of the Act of 1534, but is distinctly admitted in another similar statute of the same year. This was 'An Acte of proclamacion to be made concerning victualles' (25 Hen. 8, c. 2). The preamble runs: 'For asmoche as derthe scarsitie good chepe and plentie of chese butter capons hennes chekyns and other victualles necessarie for mennes sustenance happeneth ryseth and chaunceth of so many and dyverse occasions that it is very hard and difficile to put any certayne prices to any such thingis.' It then breaks out in the usual denunciations of covetousness as shewn especially in the practices of engrossing and regrating; that is, in modern language, in the arts of the operator for a 'corner,' and in the trade of the middleman. Saving the rights of municipal authorities to fix prices within their jurisdictions, the Lords of the Council are empowered by proclamation from 'tyme to tyme as the case shall requyre to sett and tax resonable prices of all suche kyndes of vitalles . . . how they shall be sold in grosse or by retayle for reliefe to the kynges subjectis.' It will be observed that by this Act a step forward has been taken in the direction of fixing prices. By the Act of the same session 'concernyng Graziers and Butchers,' prices were to be fixed for the wholesale dealer upon complaint. By this Act prices were to be fixed for both wholesale and retail vendors from the outset.

<sup>1</sup> This proclamation is printed at length in Schanz, ii. 650, but under the date of March 14, 1534. That this is a mistake for 1535, is evident from a clause reaffirming the Act against killing calves which the statute of February 1534 had suspended. The proclamation, on the

contrary, reaffirmed the Act against killing calves as from 'the first daie of January last,' i.e. 1535, as provided by the Act of 1534. See also L. and P. viii. 441 and 350.

<sup>2</sup> L. and P. viii. 350. Easter Day in 1535 fell on March 28.



When June 24, 1535, was come, upon which all butchers were to revert to the retail prices for meat fixed by the Act of 1533, compliance once more proved impossible. In less than three weeks another proclamation appeared, dated July 12.<sup>1</sup> This proclamation followed that of October 23, 1534, in allowing to London butchers, in consideration of their more onerous charges, the half-farthing per lb. in excess of the statutory prices until February 2, 1536. Parliament met on February 4, and proceeded in a new statute to acknowledge its failure. 'An Acte lycensyng all Buchers for a tyme to sell vytell in grosse at theyr pleasure'<sup>2</sup> recounts in its preamble the history of the measures for fixing the prices of meat—the Act of 1533 limiting the prices of the butchers, and the strengthening of the hands of the authorities by the Act of 1534, both in the direction of inflicting punishment and in the power to seize and sell at statutory prices. These 'beneficiall estatutes,' it went on to complain, had been rendered nugatory by exceptional visitations of Providence. 'The Kynges Highnes wel considering the great darth of al maner of vitayles which be nowe and syns the makyng of the seid estatutes hath fallen and happened within this his Realme, as well by morreyne and deathe of such cattelles as by great waters and unseasonable wethers, whereby the brede and increse of the same is myche enpayred and mynyshid, in such wyse that if the said former statutes were put in execucieon the Bouchers and sellers of such vitayles were not able to lyve nor that his commons shuld be well servid therof, the scarsite of the same considerid,' &c. The statute then enacts that all butchers may from April 12, 1536, to April 24, 1540, kill and sell all manner of meat as before the Acts of 1533 and 1534. Another section adopts a curious compromise in the matter of the Act of 1533, which renewed until January 1, 1536, the statute of 1529 against killing sucking calves for sale. It continues the prohibition for two years as from January 1, 1536, but suspends it during two years from April 12, 1536.<sup>3</sup> The effect of this circuitous device, which avoided the necessity of a new statute, was that the close season, or at any rate so much of it as extended from January 1 to April 12, was maintained in 1536. The rest of 1536, the whole of 1537, and January 1 to April 12, 1538, were free under the suspending section. For the rest of 1538 the restriction was revived. A subsequent section provides 'that the seid acte made for the

<sup>1</sup> See Appendix, p. 303, *infra*.

<sup>2</sup> 27 Hen. 8, c. 9 (1536).

<sup>3</sup> The Act was proclaimed on April 14.

Brit. Mus. MSS. Harl. 442 Plut. lxvi. D. f. 129.

kylling of calves' shall take effect for two years from January 1, 1539.<sup>1</sup>

The petition of the Butchers' Company now printed<sup>2</sup> must certainly belong to a date immediately preceding the expiration of the suspension of the statute of 1533 fixing prices—that is, sometime in the early part of 1540. That it was before March 4, 1540, appears from a proclamation issued at that date. Once more the administration evades confession of failure. Permission is given to kill and sell 'calves and all manner of flesh without weighing the same' from Easter 1540 (March 28) to November 1 following, in consideration of 'the multitude, number, increase, and multiplication of our people' and 'the great confluence of our nobles and subjects' to London to attend the coming Parliament. That Parliament met on April 12 and sat till July 24, but though it was active in domestic legislation, it left the thorny problem of prices untouched. The representations of the butchers, however, did not remain unheeded. On October 27, four days before the revival of fixed prices was to take effect, another proclamation<sup>3</sup> renewed for a year, until November 1, 1541, the suspension of the statute of 1533. It may be inferred that at the expiration of the year this suspension was continued, presumably by a proclamation which has been lost. The Act of 1542, passed by the Parliament which met in January of that year, which Act incorporates the petition of the Butchers' Company printed in this volume, implies that no recent revival of the suspended statute of 1533 fixing prices, nor of that of 1534 enlarging the powers of the magistrates, has taken place. The petition dwells rather upon the probable consequences should such suspension be terminated, and prays the repeal of the Acts. To this prayer Parliament assented. The policy of fixing the prices of meat was for a time abandoned by the passing of 'An Acte for Butchers to sell at their Pleasures by Weight or otherwise.'<sup>4</sup> It is enough to record here that this policy of freedom from restriction lasted little more than two years. The fresh debasement of the coinage which took place in 1543 was followed by a rise of price, and by a proclamation of May 22, 1544, government once more vainly essayed to obviate the consequences of its own impolicy.<sup>5</sup>

The impossibility of obedience to the statutes on the part of the butchers, in view of the wholesale prices, is demonstrable. In the case of beef, in the sixteenth century 'the carcase was light, for the oxen bought for victualling the navy were not more than 4 cwt. in

<sup>1</sup> L. and P. xv. 294.

<sup>2</sup> P. 221.

<sup>3</sup> L. and P. xvi. 203.

<sup>4</sup> 33 Hen. 8, c. 11 (1542).

<sup>5</sup> Append. p. 304.

weight on the average.'<sup>1</sup> This is the live beast.<sup>2</sup> A practical farmer, also well known as an authority upon agricultural questions, informs the writer that the percentage of carcase to live weight in ordinary half-fat bullocks is 50 to 55 per cent. As in the sixteenth century the art of fattening stock was in its infancy,<sup>3</sup> it will be safe to take 50 per cent. as a fair average percentage of saleable meat to live weight. The average decennial price of oxen in 1531-40 was 28s. 7½d.<sup>4</sup> Rogers assigns to the hide before Henry 8's debase-ment of the currency in 1543 an average value of 2s. 6d., but he remarks that it was 'sometimes much dearer.'<sup>5</sup> Though he gives no average for the years 1531-40, he states the most highly priced in that decade to have been 4s. 10d., and his table of highest prices shews that the hide had been rising since 1501, when it exceeded by 8d. the 2s. 6d. of the average.<sup>6</sup> It will be safe, therefore, to allow 3s. for the hide. The result of these estimates is that the butcher purchasing the ox purchased 224 lbs. of saleable meat, costing him 25s. 7½d., that is the net sum after selling the hide for 3s. This works out approximately at 1¼d. and half a farthing per lb. But the price fixed by the statute of 1533 was ½d. the lb., and though the proclamation of October 23, 1534, raised this to ½d. and half a farthing a lb., the butcher would still be a loser of ½d. a lb. From this startling result, however, two deductions may be made. No allowance has been granted for any trifling sum that may have been realised by the sale of horns<sup>7</sup> and offal. In the second place, the wholesale prices of Rogers generally represent the prices paid by corporations, such as colleges, reputed wealthy, for their own consumption. The butchers, as purchasers for retail sale, would probably exact an abatement from these. Nevertheless, when all allowances are made, it is evident that conformity by the butchers was not to be expected.

If the same process be applied to the statutory prices of mutton, like results are obtained. Rogers states that in the fourteenth century a wether in good condition weighed a good deal less than 40 lbs.<sup>8</sup> The informant already quoted by me, basing his opinion upon the present average weight of Welsh sheep, is of opinion that about 35 lbs. would represent the average weight of the sheep of the

<sup>1</sup> Rogers, 'Hist. Ag. and Prices,' i. 328.

<sup>2</sup> Rogers gives instances of lower weights in ib. iv. 332.

<sup>3</sup> R. E. Prothero, 'Pioneers of English Farming' (1888), p. 30.

<sup>4</sup> Rogers, iv. 355. John Stow, who is pointing a contrast with later prices, quotes it at 26s. 8d. in 1533. 'Annales'

(ed. 1637), p. 568.

<sup>5</sup> Rogers, i. 328.

<sup>6</sup> Ib. iv. 328.

<sup>7</sup> Rogers furnishes no data for estimating the value of these.

<sup>8</sup> 'Six Centuries of Work and Wages,' i. 80.



sixteenth century, exclusive of the fleece, and that about 50 per cent. of the live weight represents saleable meat. According to Rogers,<sup>1</sup> the average price of the best muttens, in the twenty years 1521-40 was 2s. 0½*d.* At these prices the butcher paid something in excess of 1¼*d.* a lb. For the reasons stated he would probably pay less. But if he paid no more than 1*d.* a lb. he would still be a loser, at the statutory selling price of a halfpenny and half a farthing, of a farthing and a half per lb. Even the enlargement of price authorised by this proclamation of October 23, 1534, to three farthings a lb. would involve a loss of 25 per cent.

The case is complicated by a clause in the Act of 1533 which, after fixing the statutory retail prices, adds 'Provyded alway that the heedys neckes inwardes purtynances legges nor fete shall not be counted no parte of the carcasses afore said but suche to be solde for a lower price.'<sup>2</sup> If these are excluded from the category of 'saleable meat,' their value may be added to the butcher's profits.

Take again the case of calves. There are no data within my knowledge for the weight of calves in the sixteenth century. My informant tells me that the average weight of Dutch calves—that is, sucking calves—is about one-fifth the average weight of a bullock, but in his opinion one-fourth would be the more probable relative weight in the sixteenth century. A calf, then weighing on an average 112 lbs., would yield 50 per cent.—that is, 56 lbs. of saleable meat. 'Calf-skins are sold at very various prices, as might be expected, in the earlier part of the period (1401-1540), varying from 1s. a dozen to 5s.'<sup>3</sup> It has been noted that before the debasement of the coinage in 1543 the price of the hide had been rising. Upon the datum of the rise in hides it may not be rash to assume 4s. as the price of a dozen calves' skins in 1533. For the decade 1531-40 the average price of a calf was 3s. 7¾*d.*<sup>4</sup> The cost of the calf to the butcher, after the sale of the hide for 4*d.*, would be 3s. 3¾*d.*, which works out at a fraction under ¾*d.* a lb. This was very near, though slightly in excess of, the statutory retail price of a halfpenny and half a farthing for veal, and slightly under the enlarged price of ¾*d.* per lb. conceded by the proclamation of October 23, 1534. And the proviso of the second section already quoted would add something to the insignificant profit with which the above data credit the butcher.

The mistake made by the legislature arose from inability to

<sup>1</sup> 'Hist. Ag. and Prices,' iv. 338.

<sup>2</sup> 25 Hen. 8, c. 3, § 2.

<sup>3</sup> 'Hist. Ag. and Prices,' iv. 326.

<sup>4</sup> *Ib.* p. 355.



perceive that a movement towards higher prices had set in, due to economic causes and irrespective of the greediness of individuals for gain. The government conceived itself capable of restoring prices to the lower levels of the previous generation. The following selections from the tables of Rogers show the upward progress :

	Price of live stock.	Decennial Averages.	
	Oxen. <sup>1</sup>	Calves. <sup>1</sup>	Muttons. <sup>2</sup>
1491-1500	15s. 11 $\frac{3}{4}$ d.	2s. 1d.	1s. 10d.
1501-1510	22s. 6 $\frac{1}{4}$ d.	2s. 6 $\frac{1}{2}$ d.	2s. 4d.
1511-1520	23s. 2d.	2s. 7 $\frac{1}{2}$ d.	2s. 5 $\frac{3}{4}$ d.
1521-1530	30s. 10 $\frac{1}{4}$ d.	2s. 7 $\frac{3}{4}$ d.	3s. 4d.
1531-1540	28s. 7 $\frac{1}{2}$ d.	3s. 7 $\frac{3}{4}$ d.	3s. 3d.

Though the entries in Rogers of the prices of hides are not continuous, so as to justify an average, yet they show the same tendency. In 1500 the highest price of an ox or cow hide was 1s. 11d., in 1510 3s. 4d., in 1533 5s.<sup>3</sup> Had prices remained at or could they have been reduced to the traditional levels of the beginning of the century, the butchers could have made a profit at the statutory rates. At 2s. 7 $\frac{3}{4}$ d., which was the average price of calves in 1521-30, after deducting 4d. for the sale of the hide, the cost to the butcher of the calf would be 2s. 3 $\frac{3}{4}$ d., or 111 farthings. The saleable meat weighing 56 lbs., this works out at within an infinitesimal fraction of  $\frac{1}{2}$ d. a lb. Assuming the parts enumerated in the proviso as not included in the term 'saleable meat,' the butcher would be left to find his profit in the sale of this and in the half-farthing per lb., which, added to the  $\frac{1}{2}$ d., was the statutory price. By the proclamation of October 23, 1534, this profit would be raised to  $\frac{1}{4}$ d. a lb. To take the statutory price first: a half-farthing a lb. profit amounts to a profit of 28 farthings on a cost price of 111 farthings (2s. 3 $\frac{3}{4}$ d.), that is, something in excess of 25 per cent., and this apart from the offal. The intention of the legislature, it is clear, was not to depress the profits of the butcher to a vanishing point. In the case of oxen, the butcher's plight upon the average price of the decade 1521-30 would be worse, not better; but in view of the great rise from the price ruling in 1511-20 the price of 1521-30 may well have been regarded by the legislature as exceptional. Confused by the intrusion of ethical considerations, the legislature acted like a man in a fog. After a few steps in advance, it came back to the point from which it had started, uncertain to what cause to impute its failure. John Stow, the annalist, under the year 1533, appears to attribute the rise in the price of meat to the operation of the statute then passed to restrain it, 'which being devised for the great commodity of the Realme (as it was thought) hath proved far otherwise.'<sup>4</sup>

<sup>1</sup> 'Hist. Ag. and Prices,' iv. 355.

<sup>2</sup> Ib. 356. Only 'Averages—Highest

Prices' are given by Rogers.

<sup>3</sup> Ib. 379. 'Annales' (ed. 1631), p. 568.

A curious incident of royal prerogative is to be found in the Petition of the Justices of Devonshire,<sup>1</sup> which belongs to the years of Wolsey's chancellorship. The justices complain that the officers of the Admiralty compel the fishermen who have caught a porpoise to surrender one-half to them as representing the Crown. This they allege to be contrary to the statute according to the King the right to royal fish, but limiting it to whales and sturgeons, and they pray redress.

Petition of  
the Justices  
of Devon-  
shire.

The history of this right, traced chronologically, appears to disclose a gradual developement of the prerogative claimed. In the Laws of Henry 1,<sup>2</sup> under the section 'De jure Regis,' we find 'naufragium' only. Bracton, who wrote between 1235 and 1259, seems to have understood the claim as so limited. 'Et sunt alia quaedam quae in nullius bonis esse dicuntur, sicut wreckum maris, grossus piscis, sicut sturgio et Ballena et aliae res quae dominum non habent, sicut animalia vagantia quae nullus sequitur, petit vel advocat, et quae sunt ipsius domini regis propter suum privilegium.'<sup>3</sup> It is plain that, although porpoises caught by fishermen are 'animalia vagantia,' it cannot be predicated of them that they are 'quae nullus sequitur, petit, vel advocat.' On the other hand, Bracton claims for the Crown 'grossus piscis' in general, and no particular species of fish, but this only when derelict. 'Britton,' a treatise which, whether written by Bracton or by Bishop John le Breton, is only some ten to fifteen years later, is more explicit, but to the same effect. 'Concerning wrecks and waifs belonging to us, and sturgeons and whales, and other things found (trové), which of right belong to and are detained from us, let careful inquiry be made, and of the names of those who found them, and to whose hands they have come, and to what amount. For treasure hid in the earth and found shall belong to us, but if found in the sea, it shall belong to the finder. . . With regard to wreck of sea found, the ordinance of our statutes shall be observed. Sturgeons taken on our land (pris en nostre terre) shall belong to us, saving to the finder (troveour) his costs and reasonable expenses. Of whales found in our jurisdiction (trovez en noster poer) we will that the head be ours and the tail our consort's according to the ancient usage.'<sup>4</sup> Here the distinction is quite clear. The Crown makes no claim except to whales and sturgeons thrown

<sup>1</sup> P. 122.

<sup>2</sup> 'Leges Henrici Primi,' c. 10, § 1, in R. Schmid, 'Die Gesetze der Angelsachsen' (2nd ed. Leipzig, 1858).

<sup>3</sup> Lib. iii. f. 120.

<sup>4</sup> Lib. i. c. xviii. 1, 4, 'De Troveures.' Britton, edited by F. M. Nichols (1865) i. 66.

up on the shore. Nor is any claim advanced to 'grossus piscis' in general.<sup>1</sup>

The earliest claim on the part of the Crown to fish caught at sea appears, so far as I have been able to discover, in the statute 'Prerogativa Regis,' of doubtful date, though generally ascribed to 17 Edward 2 (1323-24).<sup>2</sup> 'Item habet (Rex) Warectum maris per totum regnum, wallenas et sturgiones captos in mari vel alibi infra regnum, exceptis quibusdam locis privilegiatis per Reges.'<sup>3</sup> Here is an entirely new claim, precisely that which Bracton and Britton dismissed, to fish taken at sea. On the other hand, it is to be noted that the claim no longer extends to 'grossus piscis,' but to two kinds of fish only, whales and sturgeons.

There are, however, signs that in the reign of Edward 3 this claim was not advanced by the Crown, at any rate when dealing with Parliament, but that the royal pretension went no further than to fish of the nature of wreckage, that is, cast up on the sea-shore. In the Rolls of Parliament for 1459 two grants are recited, made by Edward 3 in 1337 in favour of Edward the Black Prince. In the first of these, dated March 17, 11 Ed. 3, are granted, *inter alia*, 'omnia Proficua Portuum nostrorum infra eundem Comitatum Cornubie ad Nos spectantia; simul cum wrecco Maris, tam de Balena et Sturione et aliis piscibus que ad Nos ratione prerogative nostre spectant quam aliis quibuscumque ad wreccum Maris hujusmodi qualitercumque pertinentibus in toto predicto comitatu Cornubie.' In the second, dated March 18, 11 Ed. 3, the grant is recited in the same terms. The 'grossus piscis' is doubtless claimed under the words 'aliis piscibus,' but the association with wreckage is unmistakable. And there is no suggestion of the claim of the statute 'Prerogativa Regis.'

Circumspect though the Crown was in its assertion of prerogative in the face of Parliament, it was otherwise with the royal officials in their dealings with the fisherman. Less than forty years later, in the code of 'the Blacke Booke' of the Admiralty,<sup>4</sup> belonging to the year 1375, 'royal fish,' as they were termed, are no longer associated with wreckage, nor restricted to whales and sturgeons. 'Item; lett inquiry be made of all those whoe have taken or found upon the sea whales, baleyne, sturgeon, porpoise, or grampas, whereof the Lord Admirall hath not had his share for the King (that is to say), the

<sup>1</sup> I have not followed the learned editor's translation, which obscures the point.

<sup>2</sup> 'Statutes of the Realm,' vol. i. p. 226.

<sup>3</sup> § 13. 'Wallenas' apparently a blunder for 'ballenas' (balaenas).

<sup>4</sup> Edited by Sir T. Twiss (1871), i. 152.



moyety.' Mr. Marsden, in the second volume of his 'Select Pleas in the Court of Admiralty,'<sup>1</sup> remarks that 'the very large terms of the Admiral's patent instigated him to make claims to wreck, royal fish, findalls, as well as to rights connected with the sea-shore, and even to the sea-shore itself, which were wholly unfounded in law.'<sup>2</sup> The authority of the 'Prerogativa Regis' being doubtful, the growth of the claim would seem to be due not to the deliberate encroachment of the Crown, but to the desire of the royal officials to add to their emoluments. The Justices of Devonshire make bold to question the practical wisdom of enforcing the alleged rights of the Admiralty, though they raise no doubts of the legality of the principle asserted in the 'Prerogativa Regis.'

A confirmation of this view of the history of the alleged prerogative may be found in a foreign quarter, and one not without influence on English maritime law. The claim to 'royal fish' was not peculiar to England; it existed in France, in Denmark, and elsewhere. In the enlarged edition of the Rolls of Oleron, compiled towards the end of the fifteenth century,<sup>3</sup> while fish found in the sea are adjudged to the finder, it is otherwise with 'great fysshe having fat, that comme and are found dead on the bank of the sea.' In such a case 'regard must be had to the custume of the contre; for the lorde oughte to have parte at his desire by the custume, and the reason is goode, for the vassal ought to pay obedience and tribute to his lorde. Likewise the lord oughte to take and have his parte of the said fysshe or fat, and not in other fysshe, reserving alwaies the goode custume of the said contre in the place wher the said fysshe shall have been founde.'<sup>4</sup> Presumably the words 'and not in other fysshe' refer to fish *ejusdem generis*, that is, cast up on the shore. The Rolls, therefore, confirm the hypothesis that the original royal right went no further than to fish cast up as wreckage.<sup>5</sup>

The fragmentary case of *Browne v. Busshell*<sup>6</sup> is attended with difficulties which it is not easy to resolve. In the former volume of

*Browne v.  
Busshell.*

<sup>1</sup> Selden Society (1897), p. xviii.

<sup>2</sup> Mr. Marsden has not found any grant to the Admiral of England of emoluments pertaining to his office earlier than the reign of Henry 6 ('Select Pleas,' ii. xxiv); but the orders of the Black Book in 1375 point to his receipt of such perquisites, and it was a common practice for salaries to be paid, or at least supplemented, in such a manner.

<sup>3</sup> 'Black Book of the Admiralty,' ii. 433. The article discussed belongs to the additions of the fifteenth century.

<sup>4</sup> *Ib.* p. 473.

<sup>5</sup> The conjecture may be hazarded that this petition was successful. In 1542 was passed 'The Bill concernyng bying of Fisshe upon the Sea' (33 Hen. 8, c. 2). The object of this Act was to prevent the regrating, or buying to sell again in England, of fish offered for sale on the sea by aliens. A clause (§ 3) provided that the Act should 'not extend or be in any wise hurtfull to any persone or persones for the bying of Sturgeon Porpose or Seale upon the See.' Nothing is said of the rights of the prerogative as asserted in the fourteenth century, and apparently at the date of this petition.

<sup>6</sup> p. 120.



‘Select Cases in the Star Chamber’) the growing practice at this time on the part of the towns of extorting tolls was illustrated in the case of the City of London and the City of Exeter. The latter set up a contention such as the right here claimed by the village of Pakefeld, that its citizens were exempt from scavage, a toll on the exposure of goods for sale, as being in Ancient Demesne. In 1504, two years after the Exeter case, the Act was passed ‘De Scavagio non recipiendo de subditis’ (19 Hen. 7, c. 8). That Act provided that ‘if any Mayor &c. levied “skavage,” otherwyse called “shewage,” of any Marchaunt Denysyn, or of any oder of the kynges subjettis Denysyns, of or for any maner of Marchaundise to our Soverayn Lord the Kyng before trully customed, that is brought or conveyed by Lond or by Water to be vttred and sold in any Cite, Burgh and Town in this Lond,’ he should forfeit 20*l.* for each offence. The plaintiff Browne, nevertheless, complains that he was charged in 1516 3*s.* 4*d.* scavage for opening the doors of a shop for the sale of his herring, which the Mayor of Hull had compelled him to take, besides other dues which do not appear to have borne any particular designation. No record remains of the judgement in this particular case, nor can it be said with certainty in whose favour it ran, for the same complaint was made in 1533 by the inhabitants of a group of Suffolk villages, ‘Leystoft, Kyrkeley, and Pakefyld.’<sup>1</sup> The questions, therefore, suggest themselves, was the Act of 1504 held not to apply to this case or was Pakefyld not in enjoyment of the privilege of Ancient Demesne?

The second may perhaps be dismissed on the ground that in their petition to the Court of Requests in 1533 the inhabitants of Pakefyld again claimed their privilege. If judgement was delivered in 1517 in favour of Hull, it must have passed upon some other ground. Now the Act of 1504 prohibits scavage to be taken upon ‘any maner of marchaundise to . . . the kyng before trully customed.’ No custom was leviable by the king on freshly caught fish sold in the market,<sup>2</sup> and as the Act was in general terms it may be that it was interpreted on the principle that ‘*expressio unius est exclusio alterius*,’ so that fish, apart from any question of Ancient Demesne, remained liable to scavage. It is probable that upon the question of the privileges of Ancient Demesne the Star Chamber remitted the complainants to their remedy at Common Law. The Act of 1504 divided the penalty of 20*l.* between the king and the complainant or any other plaintiff in

<sup>1</sup> ‘Select Cases in the Court of Requests,’ Selden Society, 1898.

<sup>2</sup> For the list of customs and subsidies

see G. Schanz, ‘*Englische Handelspolitik*’ (1881), ii. 6.

an action of debt. That such actions were brought we know. For instance, in Michaelmas Term 14 Hen. 8 (1522), an action was brought in the Court of Exchequer against R. Elyott, sheriff of Bristol, for exacting scavage.<sup>1</sup> It is possible, therefore, that the complainants in the case before the Star Chamber in 1517 were successful at Common Law, for in the case before the Court of Requests in 1533 the inhabitants of the villages, including Pakefeld, affirm that the exactions then complained of have only been 'of late years.' Since the law left redress to the action of the parties grieved, it is far more probable that, after an interval, the municipal authorities of Hull resumed their exactions than that they defied a decree of the Star Chamber given against them so recently as 1517. And, if such an interval did elapse, it makes in favour of a judgement in 1517 in favour of the complainant, though in an action at Common Law. The privilege of Tenants in Ancient Demesne of exemption from toll would cover fish if Coke's statement be correct: 'They are,' he says, 'free and quiet from all mannor of tols in fairs and markets for all things concerning husbandry and sustenance,' unless 'sustenance' were confined to such as were *ejusdem generis* with the fruits of husbandry.<sup>2</sup>

To the student of the policy of the early Tudors and of the social and economic conditions of the period the group of cases of which the village of Thingden, Northants, was the centre will afford considerable interest. The litigation<sup>3</sup> between an inclosing lord of the manor, John Mulsho, followed by his grandson and heir, Thomas Mulsho, on the one hand, and the freeholders, copyholders, and tenants-at-will of the manor of Thingden, on the other, was carried on, as these records shew, with an astonishing pertinacity on the part of the inhabitants, and especially of their protagonist, Henry Selby, from 1494 to 1538. The two prerogative Courts, that of the Star Chamber and the Court of Requests, the Court of Chancery, and the Common Law Courts were all invoked by the aggrieved tenants, undaunted by more than one defeat. Even the commissioners appointed to arbitrate, one of them a Chief Justice, were accused by them to the Star Chamber of partiality towards the incloser. The incident exhibits, as does the whole litigation, the assurance felt by the labouring classes that the policy of the Tudor government was favourable to their interests. In this case, too, we have the spectacle, in itself not antecedently

Inhabitants  
of Thingden  
v. J. Mulsho.  
J. Mulsho v.  
Inhabitants  
of Thingden.  
Selby v.  
J. Mulsho.  
J. Mulsho v.  
Abbot of  
Croxston.  
T. Mulsho v.  
Inhabitants  
of Thingden.

<sup>1</sup> R.O.M.S. Exchequer, K.R. Memoranda of Requests,' p. 39, n. 3.  
Roll 302, M.T. 14 Hen. 8, m. 18.

<sup>2</sup> Pp. 4-67 and 306-331.

<sup>3</sup> See further 'Select Cases in the Court

improbable, but without parallel, so far as my researches have extended, of an active sympathy displayed in favour of the inhabitants by an eminent ecclesiastic, the Abbot of Croxston, who had, it must be added, a like grievance of his own. The Returns of the Commissioners of Inclosures in 1517 shew that between ecclesiastical and lay landlords there was, in the disposition to inclose, no very striking difference.<sup>1</sup> In the present volume we have an example of an aggressive ecclesiastical incloser in the person of Abbot Kirkton of Peterborough. Nor were the times such as to encourage monastic landlords, even if so disposed, to rank themselves as leaders of the popular opposition to lay inclosers. It is to be observed that the support lent by the Abbot of Croxston to the uprising of the inhabitants of Thingden occurred in January 1529, when Wolsey's power was still supreme and after the Cardinal, as well the head of the law as the head of the State, and, as legate, of the Church, had vigorously intervened in their behalf.

The litigation has not survived in its entirety, but the references to various stages of it scattered throughout the documents furnish its leading incidents. The complaints against John Mulsho were not confined to the grievance of inclosures. These had their apologists, notably Fitzherbert and, in a later generation, Tusser, who advocated them as essential to agricultural improvement. But Fitzherbert strenuously condemns the practice of inclosing as a pretext for invading rights of common and the growing disposition, whetted by the rise of rent resulting from sheep-farming, to increase fines payable upon renewals of tenancy.<sup>2</sup> This last was one of the charges against Mulsho and the particular grievance of his most persistent adversary, Henry Selby.

The earliest proceeding mentioned in these documents is a decree of the Court of Star Chamber, dated July 1, 9 Henry 7 (1494). The complainants were the inhabitants of Thingden, and John Mulsho was the defendant. Neither the pleadings nor the decree itself has survived. The substance of the decree is set out, presumably with correctness, by Henry Selby in the bill filed against John Mulsho in the Star Chamber, printed as document F. According to this, Mulsho, having inclosed 'common ground and pasture lyenge in the fylde' of Thingden, was ordered to throw his inclosures down. This decree he obeyed, and, as this is an admission made by his opponents, it may be taken to be true. For some years these particular parcels of land remained open, as before. Nor does Mulsho's

<sup>1</sup> I. S. Leadam, 'Domesday of Inclosures' (1897), pp. 42, 43.

<sup>2</sup> Of Surveyenge. The Prologue ('Ancient Tracts,' 1767), p. v.



statement in document G that upon 27 November 1495 this decree was dissolved and the injunctions discharged, conflict with the version given by the complainants. It was a record that the decree of the previous year had been carried out, and is apparently pleaded by Mulsho to bar recurrence to the antecedent grievance against him.

With the death of Henry 7, in April 1509, a sense may have arisen on one side or the other of release from the pressure of an iron hand. At any rate there was a recrudescence of the struggle at Thingden, of which the first symptom is to be seen in document A, a complaint of the freeholders and inhabitants of encroachment by inclosure upon their rights of common. Document C is a draught of document D, being a decree of the Star Chamber dated November 7, 2 Henry 8 (1510), in a suit in which the plaintiffs were William Dey and John Boughton, in the name of the inhabitants of Thingden, and John Mulsho the defendant. Both the draught and the final decree are much the same in tenour. They set forth that the defendant Mulsho, having lately inclosed and dyked certain ground in the fields of Thingden, was to be suffered to retain quiet possession of his inclosures, while, on the other hand, the inhabitants were to continue to enjoy their accustomed rights of road and footpath, abstaining from claim to any common of pasture in the inclosures. Mulsho was, however, enjoined to make no more inclosures, and was ordered to abate a nuisance of an excessive number of rabbits of which the inhabitants complained as destructive to their crops.

Alike though they are in tenour, there are material differences between the documents C and D. The two together disclose the evolution of a decree of the Star Chamber. The draught of the decree shews that it was the work of a Committee of three, consisting of the Chancellor, Archbishop Warham, the Lord Treasurer, who was the Earl of Surrey, and Foxe, Bishop of Winchester and Lord Privy Seal. Of the functions of these high officers of State in the Star Chamber enough has been said elsewhere.<sup>1</sup> For the purpose of draughting the decree they sat 'in the inner chamber of the Star Chamber.'<sup>2</sup> The final decree is undated, but is referred in document G to November 7, 2 Henry 8 (1510), the date of the draught. It sets out the Court present at its promulgation. Its members numbered sixteen, an excess of at least nine beyond the prescription of the statute 'Pro Camera Stellata.' This circumstance is fresh evidence in favour of the conclusion previously arrived at that that

<sup>1</sup> 'Select Cases in the Star Chamber' (Seld. Soc. 1902), pp. xxxv-xlviii.

<sup>2</sup> See C. L. Scofield, 'Study of the Court of Star Chamber' (Chicago, 1900), p. 70.



statute was not interpreted by the Crown lawyers as imposing restrictions upon the indefinite powers attached to the King's Council, which the Court of Star Chamber conceived itself to be.<sup>1</sup>

For some sixteen years the strife at Thingden was hushed. According to the complainant Henry Selby, in a bill probably filed by him in Michaelmas term, 1527, in the Court of Requests, but now among the documents of the Star Chamber (E), Mulsho's acquisitiveness, baffled by the injunction against fresh inclosures, sought compensation in the extortion of excessive fines upon renewals of tenancy. A complaint to this effect, which has not survived, on the part of the copyholders and others, inhabitants of Thingden, had succeeded in obtaining an injunction under Privy Seal against Mulsho, dated February 15, 1527, forbidding him to 'take of eny of the said Tenauntz eny larger or gretter Fynes other than of old Auncient tyme hath been vsid and accustomed to be paid.'<sup>2</sup> Relying upon the protection of this injunction, Henry Selby attended a manorial Court held on October 17, 1527, and prayed admittance, in the form customary in the case of copyholds, 'to a mese and halff yerd lond and a close called Grymes close,'<sup>3</sup> of which his father, John Selby, had been tenant by copy. It appears from notes by the arbitrators afterwards appointed, Chief Justice Sir Robert Brudenell, Sir John Mordaunt, and Roger Wigeston,<sup>4</sup> that the land in question was in area sixteen acres.

The dispute which ensued upon Henry Selby's claim turned upon the question of the fine which, in view of the recent injunction by the Star Chamber, the lord was at liberty to exact. The house and the two parcels of land claimed by Selby had been held of the manor, according to him, 'by three seuerall rentes' amounting to 6s. 3½*d.* yearly.'<sup>5</sup> His contention was that by the custom of the manor the heir of the deceased copyholder 'shold be admytted to the landes after a reasonable fyne, that is to say, after the custome of the maner there to pay one yeerz rent after the rate of his rent

<sup>1</sup> See 'Select Cases in the Star Chamber' (Seld. Soc. 1902), pp. xxxv-xxxvii.

<sup>2</sup> Document E, p. 16, *infra*.

<sup>3</sup> Document U, p. 59, *infra*. In F (p. 18), G (p. 22), and J (p. 33) it is described as 'a mese and xvj acres.'

<sup>4</sup> Document J, p. 32, *infra*.

<sup>5</sup> According to Selby's bill in the Star Chamber in 1528 (Document F, p. 18), 5s. 3½*d.* of this was chief rent, presumably paid by Mulsho to his feudal overlord, the Abbot of Peterborough, who held the

Hundred of Huxloe, in which Thingden is situate ('Dugd. Monast.' i. 403). The yearly revenue derived by the Abbot from the Hundred ('de Howkeslowe') was 11*l.* 18s. 0½*d.* (ib.) According to Thomas Mulsho in Document U (p. 60), which is eleven years later (1538), the rent was 'for the said mese two pence, and for the saide halff yerd lond fyve shylynges and for the saide close thre halffe pence,' a total of 5s. 3½*d.*

for a yere for his Fyne and so to be admytted.' <sup>1</sup> This he tendered, but it was refused by the lord's steward, who demanded 30s. This sum the lord and his steward affirmed to be reasonable, while each party maintained that his demand was according to the manorial custom. Incidental exacerbations of the quarrel appear in the pleadings. According to Selby, on October 28, eleven days after the deadlock in the manorial Court, John Mulsho, at the head of seven or eight men, 'with force and armys in most Ryottous wyse then and there with swordes and buklers, speerys, axys, and hatchettes' cut down and carried away wood belonging to the complainant to the value of 4*l*. By way of answer to this charge John Mulsho demurs to the jurisdiction of the Star Chamber, on the ground that it was matter determinable at the common law.<sup>2</sup> In retaliation, since the Star Chamber regarded the suppression of riots as one of its capital functions, Thomas Mulsho, the grandson, after an interval of eleven years, is at pains to present a lurid picture of the riotous assemblies and confederacies on the part of the copyholders and inhabitants, to the number of forty and more, which preluded the scene at the Court already mentioned.<sup>3</sup> Of these, seven of whom he names, Henry Selby is represented by him as the cat-paw in a conspiracy to rob him of his manorial rights.<sup>4</sup> This version of the dispute, while it conflicts with the opinion obviously entertained of Selby, as will be seen, by Lord Chancellor Audley, was useful to Mulsho as attaching to the rest of his recalcitrant tenants the charge of 'maintenance,' another of the offences specially struck at by the Star Chamber Act.

Since the history of these contentions presently reverts to the grievance of inclosures it may be well at this point to consider the issue on which they revived in 1527, that of 'reasonable' fines, there being no question, so far, at least, as concerns part of his claim above mentioned, of the complainant's right of succession, nor of the obligation upon the lord to admit him upon payment of a reasonable fine.

Widely though manorial customs varied in detail there existed, nevertheless, general standards, expounded by legal text-books, as early as the thirteenth century. It is intelligible that since the stewards of manors were from early times men bred to the law these standards became generally accepted. Britton,<sup>5</sup> Bracton,<sup>6</sup> and Fleta<sup>7</sup> prescribe one year's rent as the payment, analogous to 'relief' in the

<sup>1</sup> E, p. 16.

<sup>2</sup> U, p. 59 *infra*.

<sup>5</sup> III. v. 5.

<sup>7</sup> III. xvii. §§ 11-13.

<sup>2</sup> G, p. 22 *infra*.

<sup>4</sup> U, p. 65 *infra*.

<sup>6</sup> 85 b, 86.

case of freeholds, upon succession to a villein tenure. The term 'reasonable,' when applied to 'relief,' was defined by Glanvill as early as the twelfth century. '*Dicitur autem rationabile relevium alicujus juxta consuetudinem regni de feodo unius militis centum solidi; de socagio vero quantum valet illius socagii per unum annum.*'<sup>1</sup> It was reasonable because customary, and customary because reasonable. Nor, as Coke insists, even though a fine were 'incertus,' was it thereby exempt from the obligation of being 'rationabilis.' When we seek a further definition of this we are carried back to Glanvill's circle. Upon Littleton's statement of principle in the matter of custom, '*Tout ceo que nest pas enconter reason poet estre admitte et allowe,*'<sup>2</sup> Coke notes: 'This is not to be understood of every unlearned man's reason, but of artificial and legal reason, warranted by authority of law.' The only law in the matter was precedent or custom. It does not follow that a custom of uncertain fines left the copyholder at the arbitrary mercy of the lord. Recent investigations into the history of manors shew that the customary tenants, in the days before the profits of sheep-farming had whetted the rapacity of unscrupulous landlords, had been wont to exercise effective power in the manorial courts. Uncertain though the fines might be, the precedents at least established limits to their range. For, as Coke observes, 'if the lords might assesse unreasonable fines at their pleasures, then most estates by copy, which are a great part of the kingdom, and which have continued time out of minde, might now at the will of the lords be defeated and destroyed, which would be very inconvenient.'<sup>3</sup> In this way uncertain fines tended to become certain, until it was laid down in 1781 that two years' improved rent, without deducting land tax, 'is now fixed as the sum assessable for an arbitrary fine.'<sup>4</sup> But that in the sixteenth century 'uncertain' fines were felt a grievance, particularly in the North, where they were most frequent, is apparent from the demand of the insurgent tenants in the Northern Rebellion of 1536 that the lords should fix 'at every change two years' rent for a gressom,<sup>5</sup> in lieu of an arbitrary fine.<sup>6</sup>

Judged by these standards, the demand of 30s. as a fine upon copyholds of which the yearly rent was either 6s. 3½d. or 5s. 3½d.<sup>7</sup> appears excessive. It is to be inferred, also, that sufficient evidence had been laid before the Star Chamber as to Mulsho's disposition to

<sup>1</sup> Glanvill, ix. 4.

<sup>2</sup> Tenures, § 80.

<sup>6</sup> L. and P. Hen. 8, xi. 1246.

<sup>3</sup> Complete Copyholder, § lvij.

<sup>4</sup> Grant v. Astle, Douglas, 724.

<sup>5</sup> 'ad ingressum.'

<sup>7</sup> It is stated in E (p. 17) as 6s. 3½d., in F (p. 18) as 5s. 3½d. As to this difference see above, p. lxii, n. 5.



grinding exactions to induce the issue of the Letters of Privy Seal<sup>1</sup> on February 15, 1527. Selby, in his bill of the end of the same year, avers that 'in lyke maner the sayd Mulso dothe vnreasonably handyll all hys other tenauntes of hys sayd manour.'<sup>2</sup> Nor does Mulsho's assertion that in 1499 a fine of 26s. 8d. was paid by John Selby, Henry's father, upon admittance to the same tenements by Mulsho's feoffees to uses clear him from the imputation. Mulsho tells us himself<sup>3</sup> that he had been resident in Thingden and an active agriculturist since 1478. There can be little doubt that it was he, the resident beneficiary, who prescribed the demands made upon the tenants by his trustees. Evidently by way of protection to the copyholder there is said to have been a rule of law that the lord was bound, in the case of a fine uncertain, to admit the incoming tenant before payment.<sup>4</sup> But this rule may have been of later evolution. No such point is taken in the pleadings on either side, which appear to assume payment to precede admittance.

The answer of John Mulsho<sup>5</sup> to this bill was probably filed in January 1528, and on the 27th of that month the Court of Star Chamber ordered a commission of inquiry in the usual form of a writ of 'dedimus potestatem,' of which examples will be seen elsewhere.<sup>6</sup> The commissioners appointed were Sir Robert Brudenell, Chief Justice of the Common Bench or Court of Common Pleas, Sir John Mordaunt, Sir John St. John, and Sir Thomas Tresham, two of them to form a quorum.<sup>7</sup> Brudenell, as we know from A,<sup>8</sup> had, when a Justice of the Common Pleas, been a commissioner to report to the Chancellor upon the complaint of 1510. The result of that case had proved, as has been seen, adverse to the complainants' contention. It may well be that the recollection of this rankled in the minds of the inhabitants of Thingden and inspired the attack upon Brudenell's impartiality which presently followed. The commissioners were ordered to make their return within the quindene of Easter next following. Easter Day in 1528 falling on April 12, this would be on or before April 26. This return has not been preserved. The next document, I, sets out the complaints of the inhabitants of Thingden under three brief headings, and the names of their delegates, six in number, in addition to Selby. The grievances alleged were the

<sup>1</sup> On the difference between Letters Missive and Writs of Privy Seal see 'Select Cases in the Star Chamber' (Selden Society, 1902), p. xix.

<sup>2</sup> F, p. 19 *infra*.

<sup>3</sup> M, p. 38 *infra*.

<sup>4</sup> Watk., 'Copyh.', p. 287.

<sup>5</sup> G, p. 22 *infra*.

<sup>6</sup> Q, p. 53 Appendix, p. 324.

<sup>7</sup> H, p. 25 *infra*.

<sup>8</sup> P. 6.



exaction of unreasonable fines, the formation of six inclosures, of which the names are given, and 'the overcharyng of the comoners,' that is, by pasturing an excessive number of sheep and cattle upon the commons. There was also a charge of illegally evicting one Symkyn Walter from a piece of meadow land. A memorandum indorsed,<sup>1</sup> dated August 13, 20 Henry 8 (1528), discloses that a change in the composition of the commission had taken place, Roger Wigeston having been substituted for St. John and Tresham. The reason of this change appears from document L, which tells us that Tresham retired because he was Mulsho's son-in-law and St. John because he was in attendance upon the king. Wigeston would probably be a 'persona grata' to the complainants. He had been one of the commissioners of inclosures in the midland counties in 1517, whose proceedings betrayed no partiality towards inclosing landlords. The memorandum indorsed on I sets forth that the parties have agreed to abide the award of these three commissioners, to be made before the last day of February 1529. A provisional compromise was arrived at in the matter of the six inclosures. Three of them were to be retained by Mulsho, the other three to be treated as common 'during the same tyme,' i.e. from August 13, 1528, to February 28, 1529. This is vaguely described in L as 'at the open time of the year.' Individual complainants with special grievances were to lay their cases before the commissioners before September 20, 1528. In accordance with this last provision a settlement was made of a dispute between Henry Selby and Margerye Bettes, his step-mother, as to the right of occupancy of the house and half yardland claimed by him.<sup>2</sup> The same document also contains brief notes of Selby's complaints against Mulsho. Next follow two copies of the extract from Domesday Book, the one made by an unknown hand, the other certified as made by a clerk of the Treasury. It is probable that one, if not both, of these was made for the commissioners, for a reason which will presently appear.<sup>3</sup>

The course of the arbitrators is only known to us through the next document,<sup>4</sup> which is an answer by Brudenell and Mordaunt, the two acting commissioners, to a complaint 'put vppe to the kynges highnes'<sup>5</sup> on the part of Henry Selby. From this it appears that

<sup>1</sup> I, p. 30.

<sup>2</sup> J, p. 32.

<sup>3</sup> K, p. 34.

<sup>4</sup> L, p. 34.

<sup>5</sup> This expression, and the fact that Selby could not fail to have been gratified

at the drastic measures employed by Wolsey against Mulsho as the result of the petition to the Star Chamber, points to the Court of Requests as the court addressed by Selby against Brudenell and Mordaunt. See p. 34, n. 2.

Wigeston either abstained from acting or possibly dissented from the judgement of his colleagues. As by the terms of the original commission two formed a quorum, and nothing is said of Wigeston, the former hypothesis is the more probable. The two commissioners impugned *repe*l Selby's complaint as slanderous and proceed to render a detailed narrative of their proceedings. In order to investigate the complaints against *Mulsho* they rode to *Wellingborough*, some four miles from *Thingden*, where he and Selby, with other tenants of the manor of *Thingden*, presented themselves before them. After recommending a compromise of the dispute between Selby and *Margerye Bettes*, his step-mother, in their narrative erroneously described as his mother-in-law, they heard Selby and such of the tenants of *Thingden* as were present and *Mulsho's* answer. Their next meeting took place in the church at *Thingden* after they had viewed the inclosures of which complaint had been made. The circumstance is an illustration of the secular uses to which churches were commonly put in the absence of parish rooms and other such places of assembly. At the meeting at *Wellingborough*, and again at *Thingden*, the tenants justified their resistance to uncertain fines on the ground that the manor was *Ancient Demesne*. They said 'that they shold double their Rent and to paye no other *Fyne* by cause it was *Ancient Demeane*.'<sup>1</sup> It was doubtless to verify their contention that the extracts from *Domesday* already mentioned were taken. In order that this might be done in London the commissioners appointed another meeting at *Thingden* for the following Christmas vacation. The complainants, however, did not signify their acquiescence in the fixture, but apparently in the *Hilary Term* of 1529 Selby filed his bill of complaint against the commissioners. They at once warmly repudiated the imputations against them, 'for as we shall answer before God we favored the seid Henry and other the seid compleynautes as farre as reason and conseyens wold.'<sup>2</sup> The form of their protest is significant as exhibiting their consciousness of the side towards which the favour of the Government was likely to incline.

It will be observed that while the bill of complaint of Henry Selby marked E, and filed in *Michaelmas Term*, 1527, refers exclusively to the question of fines, the bill of complaint marked F adds to that the grievance of *Mulsho's* inclosures. The form of address of the two is also different. E is addressed to the king solely ('your Highnes');

<sup>1</sup> L, p. 36. That is, they claimed to be socage tenants. See *Glanvill*, ix. 4, p. lxiv supra.

<sup>2</sup> L, p. 36 infra.

F is addressed 'to the kyng our Souereign lorde and the lordes of hys most honorable counsayle.' To infer from the form of address the Court in which a bill of complaint was filed is not a matter of certainty. The Star Chamber Act of 1487 (3 Hen. 7, c. 1) ordered the bill to be 'put to the Chancellor,' whereas both the king alone, and more often the king and council, were frequently addressed in the sixteenth century, when the Star Chamber was the tribunal approached.<sup>1</sup> It was otherwise in the case of the Court of Requests. Out of twenty-five bills printed in the volume of Select Cases of that Court<sup>2</sup> twenty-two are addressed to the Sovereign solely, two to the Chancellor, one only to the Sovereign and Council. A bill of this period addressed to the Sovereign only, where there is a doubt about the Court in which it was filed, makes for the inference that it was filed in the Court of Requests.

The appearance of E and F following one another, it would seem, in successive terms, the second of them covering the ground of the first and adding a fresh grievance—that of Mulsho's inclosures—naturally provokes curiosity. The explanation appears to be given in the answer of John Mulsho in 1534 to the bill of complaint filed in that year by Henry Selby in the Court of Requests.<sup>3</sup> Mulsho says that 'the said Henry aboute the xx<sup>th</sup> yere of the Regne of oure seid soueraigne lord that nowe is exhybit(ed) one other surmysed bill' (he has already mentioned the bill in the Star Chamber) 'in thys honorable Courte,' that is, the Court of Requests. It is true that he dates the bill 20 Henry 8, whereas E appears to have been filed in Michaelmas term 1527, which is 19 Henry 8. But the difference of date is easily accounted for if we suppose that the decree was not pronounced till on or after April 22, 1528, when the year 20 Henry 8 began. As a matter of fact we know that the commissioners undertook to make their award before the end of February 1529, which would be 20 Henry 8. Mulsho, in short, dated the bill by the date of the decree founded on their award; and, as bills did not bear a date, whereas decrees did, this conclusion seems fairly assured.

The commission (H) addressed to Brudenell, Mordaunt, and their two colleagues on January 27, 19 Henry 8 (1528), speaks of the dispute as contained 'in billis hiis presentibus interclusis.'<sup>4</sup> There were more bills than one, and the two were undoubtedly E and F. And, although the whole dispute was entrusted to the commissioners, the Star Chamber, so far as we know, did not on this occasion

<sup>1</sup> See 'Select Cases in the Star Chamber,' pp. xv-xvi.

<sup>2</sup> Selden Society, 1898.

<sup>3</sup> See Appendix, p. 316.

<sup>4</sup> P. 27.



concern itself with the question of the fine at all.<sup>1</sup> Why? Not that it was unimportant. A question of Ancient Demesne, such as was involved by it, was always of importance, for an invasion of its privilege was jealously scrutinised as in the nature of an invasion of prerogative. The decree of the Star Chamber was directed to the inclosures only. The reason we learn from John Mulsho's answer to Henry Selby's bill in the Court of Requests. That court was evidently recognised by the Star Chamber as already having seisin of the case as regarded the fines. It was, therefore, left to issue its own decree upon that part of the dispute. That decree is set out in its effect by Mulsho<sup>2</sup>—‘that the Fynes of the seid tenauntes then compleynauntes ageynst the said John Mulsho were not certeyne, but determynable at the lordes reasonable will sumtyme more and sometyme lesse.’ It is now intelligible how it came about that a bill of complaint originally filed in the Court of Requests is found among the documents of the Star Chamber.

It will be remembered that the commissioners, by way of a compromise *ad interim*, had ordered that three of Mulsho's inclosures should be treated as common ‘at the open tyme of the yere.’ They themselves describe how this was to be done. ‘We wyllled and commaunded the said Mulsho in the kynges name to kepe open certen gappys in the open tyme of the yere and suffer the said tenaunts to have theire commen in the seid closes as byfore that tyme they have vsed to haue there.’<sup>3</sup> So far as it goes—for it does not appear that this was intended as a final determination of this portion of the controversy—the language in which this order is described implies that as to these three inclosures the commissioners found against Mulsho. Though the commissioners undertook to make their award before the end of February 1529,<sup>4</sup> it is to be inferred that they made a return to the Chancellor, Cardinal Wolsey, upon the matter of the inclosures before the end of 1528, and from the fact that the intended hearing of the claim of Ancient Demesne had not taken place, that that question was left for the moment in suspense. At any rate Wolsey, presumably upon the commissioners' report, appears as early as January 1529 to have decided, so far as the inclosures were concerned, adversely to Mulsho.<sup>5</sup> He ordered a writ to issue out of Chancery commanding the sheriff of Northamptonshire, who in 1529

<sup>1</sup> See Thingden, Inhabitants of, v. John Mulsho, M, p. 39.

<sup>2</sup> Appendix, p. 316.

<sup>3</sup> L, p. 36, *infra*.

<sup>4</sup> L, p. 30, *infra*.

<sup>5</sup> This and the following incidents are narrated by Mulsho in his bill, M, against the inhabitants of Thingden, belonging, it is probable, to Michaelmas term 1529. P. 38.

was Sir William Fitzwilliam,<sup>1</sup> to destroy Mulsho's inclosures. These inclosures, according to Mulsho's petition of the Michaelmas term following,<sup>2</sup> consisted of twenty-six acres of pasture, which had not been ploughed many years before, and fourteen acres of arable.<sup>3</sup>

On January 16 of that year (1529) the sheriff threw down 'the saide hedges and dyches and dystroyde all the quicke of the same.'<sup>4</sup> Exulting in their victory, the inhabitants of Thingden gathered together to make the work complete. No sooner had the sheriff with 'the power of the county' turned his back than upon the same day they descended upon what was left of the inclosures and hewed down the gates and posts which remained standing. January days are short, and their revenge was for a time suspended. Nine days later some seventy of the inhabitants, among whom the name of Henry Selby does not occur, armed with a diversity of weapons, including spades, dug up by the roots the trees which Mulsho had planted. During eight days the work of destruction continued, amid the ringing of bells and the pæans of the populace. The instigator of these outrages, according to Mulsho,<sup>5</sup> was no less a person than the Abbot of Croxton, or Croxston, as the Abbot spells it, who had formerly been vicar of the parish, and who, in right of his house, was a landowner there.

It is most unfortunate that the decree upon which Sir William Fitzwilliam acted has not been preserved. The complaint of Mulsho that he was not called upon to answer to it 'by any ordinary process' suggests that he had been returned as an incloser upon some one or more of the missing membranes of the Returns of the Commissioners into Inclosures in Northamptonshire in 1517. Indeed, upon the evidence before us this must certainly have been the case, since his neighbours were not in a disposition to befriend him by concealment. In July 1526 a proclamation had ordered that all inclosers, 'of what estate, degree or condition soever they be,' since 1485, 'whereof any Inquisicion or office is found and remayneth of Record, that they and every of them before the xv<sup>th</sup> of Michaelmas next comming take awaye, destroy, cutt and cast downe the hedges, pales, and other

<sup>1</sup> L. and P. Hen. 8, iv. 4914.

<sup>2</sup> M, p. 38.

<sup>3</sup> This description is of importance in connexion with the criticism offered by Mr. E. F. Gay in the 'Transactions of the R. Hist. Society,' N.S. xiv. 231-303, upon the editor's interpretation of the returns of the Inquisition of 1517. According to the editor the form of the returns varied according as the inclosures were inclosures

to pasture or simply inclosures of arable. According to Mr. Gay the variation in the form of the returns was accidental, and all the inclosures were inclosures to pasture. Mulsho's petition is proof that, in his case at least, nearly 50 per cent. of his inclosures were inclosures of arable and not conversion to pasture.

<sup>4</sup> M, p. 40.

<sup>5</sup> N, p. 48.

enclosures thereof and fill the ditches and make the groundes playne as they were before the enclosures thereof . . . except the owners of the same groundes so enclosed iustifie and sufficientlie prove by good true and vnfeigned allegacions and approved reasons to be made' in Chancery . . . 'that the continuance and standing still of their hedges, pales and other enclosures be not preiudiciall, hurtfull, nor to the annoyance of the kinge's subjectes.'<sup>1</sup> This was reinforced by another proclamation of February 15, 1528, commanding all inclosed grounds to be laid open and the ditches filled up and the hedges broken down and taken away and removed before the following Easter 'upon the pains contained in the statutes made in that behalf.'<sup>2</sup> These 'pains' were that the superior lords should enter and take half the yearly profits arising from the inclosures under the Act of 1489 (4 Hen. 7, c. 19), which was strengthened by the Act of 1515 (7 Hen. 8, c. 1) only to the extent that, failing this action by the lord immediately superior, the right of entry should pass to his superior. Of throwing down inclosures the Act of 1489 said not a word. The Act of 1515, however, provided that inclosures and conversion of arable from tillage to pasture since the first day of the Parliament (February 5, 1515), 'wherby any house of husbandry wythin this Realme ys or shalbe hereafter decayed, that then all suche landes shalbe by the same owner or owners . . . wythin oon yere next ensueng the same decaye put in tyllage and exercised used and occupied in husbandry and tyllage as they were the said first day of this present parliament.' But again no provision other than that already mentioned was made for enforcing the Act. It is apparent, therefore, that the proclamations, in the general form they took, had no statutory justification. In the case of John Mulsho it is not even alleged against him that he had decayed any house of husbandry. Wolsey's action, in short, was a revival of the coercive jurisdiction of the Council against which, during the fifteenth century, the House of Commons had incessantly struggled.<sup>3</sup> Mulsho's protest that Wolsey had issued the writ commanding the destruction of his inclosures 'without any Inquisicion or other mater of Recorde remaynyng in the said courte of Chauncery or elsewhere prouing the saide Inclosure to be contrary to any lawes or statutes of this Realme'<sup>4</sup> sounds like an echo of the petition of the House of Commons in 1421 against the issue of summons 'to answer unless

<sup>1</sup> Brit. Mus. MSS. Harl. Plut. lxvi. D, f. 64.

<sup>2</sup> Ib. f. 105.

<sup>3</sup> See Sir F. Palgrave, 'Essay upon the Original Authority of the King's Council,' 1834, pp. 45-52.

<sup>4</sup> P. 40.



by writ original and due process according to the law of the land.' But the Act of 1453 (31 Hen. 6, c. 2), though limited to seven years, gave a statutory authority to the initiation of proceedings by the Council which the Crown never allowed to fall into desuetude and which was confirmed, though in a different form, by the statute 'Pro Camera Stellata' of 1487.<sup>2</sup>

Encouraged by their triumph, and conscious that the Church and law favoured their cause, the tenants determined to obtain a judicial decision upon the remaining questions at issue. On February 28, 1529,<sup>3</sup> perhaps on receipt of the commissioners' award, as well as on other occasions they held public meetings and collected subscriptions, or, as the contemporary phrase had it, 'made a common purse' for the support of Henry Selby's complaints. It is suggested by Thomas Mulsho, grandson and heir of John Mulsho, who tells this part of the story, that they thereby committed three offences against the laws. Their meetings were 'confederacies'—that is, combinations, on which the law frowned<sup>4</sup>—they were alleged to be riotous, and they were convened for the purpose of enabling Selby to carry on legal proceedings by way of 'maintenance.' Now 'riotts and unlawfull assemblez' and maintenance were all breaches of common and statute law, and were all assigned to the Star Chamber by the Act of 1487 (3 Hen. 7, c. 1).

Smarting at his treatment by the Star Chamber, Mulsho, as soon as he had secured the decree of the Court of Requests in his favour in the matter of fines, took possession of the 'mease, half yerd lond and close called Grymez Close,' occupied by Selby.<sup>5</sup> Doubtless with the aid of his neighbours, Selby promptly evicted Mulsho's representative and re-entered into possession. At the ensuing assizes at Northampton, probably in Trinity Term, 1529, Mulsho brought an action of trespass, and Selby was cast in costs and damages to the amount of five marks (3*l.* 6*s.* 8*d.*). According to Selby, Mulsho's success was achieved by imposing upon the judges a forged court-roll.<sup>6</sup>

Flushed by his victory, Mulsho, if Selby is to be believed, now carried things with a high hand. His policy, Selby asserts,<sup>7</sup> was to reduce socage-tenants in Ancient Demesne to the level of mere tenants-at-will at common law. To enforce this end he committed waste upon Selby's holding by carrying away hay and by cutting down

<sup>1</sup> Rot. Parl. iv. 156 a.

<sup>2</sup> See 'Select Cases in the Star Chamber,' 1902, pp. lx, lxi.

<sup>3</sup> U, p. 61.

<sup>4</sup> See M, p. 44, n. 41.

<sup>5</sup> This with the proceedings immediately consequent is the part of the story told by

John Mulsho in 1534, in his answer to Selby's bill of that date in the Court of Requests. See Appendix, p. 317.

<sup>6</sup> Complaint in the Court of Requests (1534), p. 308.

<sup>7</sup> Ib. p. 307.

trees. He also impounded at Burton Latimer four of Selby's horses. It is not surprising if the tenants retaliated. In August 1529 the dispute took a fresh turn. Among the inclosures retained by Mulsho on the authority of the decree of 1510 had been two known respectively as Bull Holme and Debdale. Both of these were enumerated by the commissioners of 1528 as inclosures of which complaints were made. By their provisional order,<sup>1</sup> already mentioned, Debdale or Depedale Close was to be thrown open 'in the open time of the year'; Bull Holme to be retained as inclosed. The latter, we are told, was 'a medowe ground.' From John Mulsho's petition against the Abbot of Croxston in 1530<sup>2</sup> we learn that both Bull Holme and Debdale were among the inclosures uprooted by the villagers in January 1529.

It is somewhat surprising, however, to learn from John Mulsho's petition of Michaelmas Term, 1529,<sup>3</sup> that in August of that year Bull Holme and Debdale or Depedale were both once more inclosed. The villagers, he complains, 'enteryd into a grounde callyd Debdale in Thingdon aforesaid being the seuerall ground of the saide John Mulsho.' The beasts driven in by them 'defouled the seuerall gresse of the said John Mulsho.' He is less explicit about Bull Holme, simply complaining that the beasts were 'defoulyng of the gresse of your saide Orrator in a place callid Bull Holme.' If it were open and common it could not be his grass. The case of Bull Holme precedes the other in the bill, and it may have occurred to the draughtsman, when dealing with Debdale, that a greater precision of statement was desirable. His reluctance to set out *totidem verbis* that Bull Holme was also his inclosure may, however, have been due to another reason. In his answer to Mulsho's bill of 1530 the Abbot of Croxston complains that Mulsho had thrown into a new inclosure, as it would seem, at Bull Holme an inclosure of half an acre of meadow belonging to the abbey.<sup>4</sup>

Into the inclosure called Bull Holme on August 14, 1529, the villagers turned four head of cattle. Mulsho distrained them as damage-feasant and put them in the pound. On the following day, August 15, six of the inhabitants, three of whom had been prominent in the affair of January, 'with force and armes broke the common pounce and toke out the bestes.' Pound-breach was an offence against the law, while 'force and armes' made this a case for the Star Chamber. The example was contagious. On the same day a party of eight invaded the inclosure called Debdale. One of them, Thomas

<sup>1</sup> I, p. 32.

<sup>2</sup> N, p. 46.

<sup>3</sup> M, p. 38.

<sup>4</sup> O, p. 50. Cp. p. lxxvii.

Makernes, had figured in both the former incidents, and will be heard of again, while four of the others had been among the uprooters of the inclosures in the previous January. They drove in a herd of 180 to 200 beasts, which, after three days, Mulsho distrained as damage-feasant. The pound at Thingden having been forced, the beasts were being driven to pound at Northampton. This was an illegal proceeding.<sup>1</sup> About three miles from Thingden they were rescued from Mulsho's drovers by a crowd of fourteen women. Seven of these women were the wives of the men charged with having, in the first instance, driven the beasts into the inclosure.

For the moment Mulsho appears to have remained without redress. But the wheel of fortune was revolving. In October 1529 Wolsey was dismissed and Sir Thomas More succeeded him as Chancellor. More was a lawyer, and a man whose sympathies, notwithstanding the larger views expressed in the 'Utopia,' were on the side of authority in Church and State. Both combatants were at once astir. Selby filed a bill in Chancery complaining of the fines demanded, a matter which Edward Mountague, the steward of the manor, was ordered to adjudicate.<sup>2</sup> Mulsho filed a bill in the Star Chamber against the inhabitants of Thingden.<sup>3</sup> In language of uncommon boldness for that time, since the Cardinal, though in disgrace at Court, was still Primate of England, he impugned Wolsey's order for the destruction of his two inclosures as having been made 'with oute dewe examynacyon.' Men in the sixteenth century, seeking their fortunes by royal favour, were quick to turn and rend a fallen courtier; but a reflection by a country gentleman before the new Chancellor upon the administration of justice by his predecessor seems to indicate a confidence in a reversal of the agrarian policy hitherto pursued. Wolsey had proved himself, by the Inquisition into inclosures of 1517, a terror to inclosing landlords.<sup>4</sup> Mulsho's language indicates an assurance that with his retirement they might take heart of grace, and that in the new Chancellor they were likely to find a friend. Had the Star Chamber in the reign of Henry 8 been inspired with the exalted sense of its own sublimity which, as Coke's description shews,<sup>5</sup> characterised it in the days of James 1, Mulsho would have risked a ruinous fine, perhaps added to imprisonment, for con-

<sup>1</sup> See M, p. 43, n. 36.

<sup>2</sup> See John Mulsho's answer to Henry Selby's bill of 1534 in the Court of Requests, Appendix, p. 317. See *ibid.* n. 23, and p. lxxvi.

<sup>3</sup> M, p. 33.

<sup>4</sup> Mulsho's name does not appear among the extant returns of this Inquisition; but see p. lxx.

<sup>5</sup> 4 Inst. 65; *cp.* W. Hudson, 'Of the Star Chamber,' 'Collect. Jurid.' ii. 8, 9.



tempt of an order of the Court. As it was, the proceedings which followed justified his anticipation that More stood for principles likely to be opposed to any endeavour on the part of the tenants to vindicate their claims with the strong hand.

Mulsho's bill of complaint<sup>1</sup> affects to give a history of his dealings with his land from the time that he came into possession of five-eighths of the manor of Thingden in 1478. But he is careful to omit mention of the decrees of the Star Chamber in 1494 and 1510. He describes himself as having been since 1478 a resident in Thingden 'vsing there grete husbondry sumtyme with Foure plowes and sumtyme with thre and wyth too at the leste and yet doth.' The *diminutio* seems to mark the progress of his inclosures and to be a confession of that 'decay of husbandry,' that is, of arable cultivation, which, when associated with the destruction of houses, the Acts against inclosures had condemned.<sup>2</sup> He then proceeds to set out the incidents already narrated.

The reproach of 'the law's delays' could not be laid against the Star Chamber at this time. Wolsey surrendered the Great Seal on October 19, 1529. Judgement was delivered by the new Chancellor, Sir Thomas More, on December 3 following.<sup>3</sup> If we can rely upon Mulsho's recital, the decree was in his favour upon all points. More reversed Wolsey's decision, and condemned the action of the villagers as contrary to the decree of the Star Chamber in 1510 allowing Mulsho to retain his inclosures. The six inclosures indorsed<sup>4</sup> on that decree were, it is to be presumed, those authorized, and these six were the inclosures destroyed in the previous January.

The unfortunate villagers were by this decision made the victims of a change in agrarian policy. Unauthorized though their action may have been, since the destruction of the inclosures had been entrusted by the Chancellor to the Sheriff, they were not primarily responsible, and may well have pleaded that their subsequent action served but to render the decree of the Court more effective. Nevertheless, those who had taken part in the work, as well as their 'ayders or procurers,' of whom Mulsho reckoned the Abbot of Croxston the principal, were condemned to pay the cost of a complete restoration

<sup>1</sup> M, p. 38.

<sup>2</sup> 4 Hen. 7, c. 19, intituled in the Exchequer copy 'For keypyng up of houses for husbandrye.'

<sup>3</sup> N, p. 45.

<sup>4</sup> D, p. 15, where two inclosures are indorsed below the six; but these do not appear to have been the subjects of litigation

after 1510. The memorandum of the commissioners of 1528 records, however, that the inhabitants complained 'principally of vj closes,' and this implies the existence of minor ones (see I, p. 29). But the two additional ones in D are of greater extent than some of the six.

of the inclosures. This was to be undertaken by Mulsho and the bill of costs submitted to the Chancellor.

In the meanwhile, as ordered by More, Edward Mountague, the steward of the manor, endeavoured to arrange with Selby the fine to be paid on admittance to his father's holding. This was the usual course of proceeding, the tenant being bound to sue for justice in the Court of the Manor before invoking the Courts of the King. It may seem to us invidious, to commit a judicial decision to an official indirectly, through his patron the lord of the manor, interested in the case, but if we regard the legal doctrine that the suitors of the manor court were themselves the judges, and the independent bearing which, as the story told in this and in the Abbot of Peterborough's case, they actually exhibited in the sixteenth century, this objection is somewhat discounted. At any rate, on April 27, 1530, Mountague held a manor court at Thingden, at which Selby appeared. The wrangle about the fine was renewed. Selby refused to raise his offer, and Mountague reported to the Chancellor the fruitlessness of his commission. More, evidently of opinion that Selby's case was a bad one, thereupon committed him to the Fleet prison for a fortnight, a penalty it would be difficult to justify, unless he interpreted Selby's refractoriness as contempt of Court.

That Mulsho was a landowning Shylock appears from the action next taken by him. It has been seen that in the bill which led to More's decree of December 3, 1529, he described his inclosures as two in number, containing 26 acres of pasture and 14 acres arable.<sup>1</sup> These are the inclosures of the destruction of which he complained, and he added that, in consequence, 'the said John Mulsho now is left without any inclosure or pasture for the mayntenaunce of his husbondry.'<sup>2</sup> Nothing could be more explicit; nevertheless Mulsho presented a bill of costs amounting to 40*l.* for the restoration of inclosures extending in area to 137 acres.<sup>3</sup> The incriminated persons and the Abbot of Croxston unanimously refused to pay,<sup>4</sup> whereupon Mulsho filed a fresh bill<sup>5</sup> in the Star Chamber against the Abbot and twelve of the villagers, whose recalcitrance the Abbot was alleged to inspire. This petition, though undated, may be assigned approximately to Easter Term, 1530. The answer of the Abbot set out that, by More's judgement, he was to be made contributory only if proved before the Court guilty of maintenance or of otherwise pro-

<sup>1</sup> M, p. 38.

<sup>2</sup> M, p. 40.

<sup>3</sup> N, p. 47.

<sup>4</sup> Ib. p. 48, cp. p. 55.

<sup>5</sup> Ib. p. 45.

curing the destruction of the inclosures. He disclaimed all part or lot in the proceedings of the villagers and pleaded that, as a consequence, he was not liable for any of the cost of restoration. He then carried the war into the enemy's country. The discrepancy in Mulsho's statements as to the area of his inclosures has already been noticed, and the Abbot's answer explains it. Mulsho had taken advantage of the decree for the restoration of his inclosures to make new ones. Over some of this newly inclosed ground the Abbots of Croxston's tenants, for the Abbots also held a manor in Thingden, had enjoyed rights of common. Mulsho had at the same time 'enclosed and made severall to hym selffe halffe an acre of severall medowe grounde in Bullholme aforesaid of the true patremonye and inherytaunce of the seid poore howse of Croxston.'<sup>1</sup> From this it appears that there was, at least, one other inclosure at Bullholme besides Mulsho's, and that the inclosure of the Abbots of Croxston was claimed to be of immemorial standing. Mulsho, it would seem, threw the inclosure of the Abbot into the new inclosure made by him under colour of More's decree. It was perhaps this trespass upon the rights of their friend the Abbot that had provoked the villagers to drive their cattle into Bullholme, apparently in defiance of the Star Chamber. If so, it is not surprising that Mulsho imputed their act to the Abbot's instigation. It would seem, also, that the ownership of the inclosure claimed by the Abbot had been a matter of dispute in the Courts both of Chancery and of the Star Chamber, to which Mulsho, in his replication,<sup>2</sup> refers with the innuendo that the Abbot, who had been the plaintiff, had failed to prove his case.

At the conclusion of his replication, Mulsho claims against the Abbot the sum of 17*l.* 7*s.* 8*d.* a moiety of 34*l.* 15*s.* 4*d.* 'awarded to the saide John Mulshoo by decree of this honourable court.' This shews that the pleadings had been protracted during some months, two commissions having been issued since the bill of complaint was filed. As the later of these is dated November 9, 1530,<sup>3</sup> the replication probably belongs to Hilary Term, 1531. The award, of which this replication is the sole record surviving, shews that Mulsho's claim of 40*l.* had been reduced by the commissioners.

The first commission was issued in the usual form on July 4, 1530.<sup>4</sup> The commissioners, Edward Mountague and William Saunders, esquires,<sup>5</sup> were authorized to arbitrate with the consent of the parties

<sup>1</sup> O, p. 50.<sup>2</sup> P, p. 52.<sup>3</sup> S, p. 56.<sup>4</sup> Q, p. 53.<sup>5</sup> See p. 55.



and to make their return to the Star Chamber in the quindene of Michaelmas, that is, on or before October 13.

It will be observed that in the commission<sup>1</sup> the plural form 'quibusdam billis' is used of the proceedings in which John Mulsho was plaintiff and the inhabitants of Thingden and the Abbot defendants. Similarly, the commissioners expressly return that they have had before them two separate complaints by the same plaintiff against the Abbot and other defendants.<sup>2</sup> In the commission the bills are specifically described as 'coram nobis et consilio nostro,' that is, before the Star Chamber. In July 1530, when the commission issued, More was still Chancellor, so that there could be no question of including among the matters to be submitted to arbitration the bill of John Mulsho which led to More's decree of December 3, 1529. Nor were the Abbot and the villagers proceeded against in several bills. The form of the Commissioners' return (R), however, suggests an explanation. They recite the tenour of the Commission as giving them, in the case of John Mulsho against the Abbot of Croxston, Robert Tesdale, and other defendants, authority 'to make theryn a fynall ende,' or else to report the facts. In the case, on the other hand, of John Mulsho 'against the same Abbot and other defendantes' their authority is expressed by them to be limited to this, that they 'should here and examyn certen causez.' They claim no authority to decide. Now Tesdale is a defendant in Mulsho's bill of 1530 (N), but not in his bill of 1529 (M), upon which last More's decree had been founded. It may be inferred, perhaps, that the instructions to the commissioners had been that the bill of 1529 (M) was referred to them, not for their adjudication, since the Star Chamber had adjudged it already, but as part of the *res gestæ*, to elucidate the history of the case. In the case of John Mulsho's bill of 1530 (N) they had full powers to arbitrate by consent.

The commissioners, by their own report, appear to have done their work perfunctorily. Although the commission had issued on July 4, there is no indication that they took any steps to execute it till after Michaelmas.<sup>3</sup> At the ordinary Michaelmas quarter sessions at Northampton they contented themselves with asking Robert Tesdale and five other of the lay defendants, who alone appeared, whether they would pay their shares of John Mulsho's claim of 40*l.* for the restoration of his inclosures. Their complaint being that part of this expenditure had been upon new and unauthorized inclosures,

<sup>1</sup> Q, p. 54.

<sup>2</sup> R, p. 55.

<sup>3</sup> Ib.

two of them declined to answer at all, while the others, in varying terms, refused.

So inconclusive a report was not to More's satisfaction. A fresh commission was issued on November 9, 1530,<sup>1</sup> to Sir John Mordant, knight, and Walter Luke, esquire.<sup>2</sup> This time the instructions to the commissioners were not general, but specific. They were to survey and measure the inclosures, and to ascertain and report their cost by February 3, 1531. The defendants, who had been summoned to London, were permitted to return to the country after authorizing their attorney to abide the event.

The next document,<sup>3</sup> presumably returned in accordance with these instructions, is headed, 'Interrogatoryes for the parte of John Moulsho esquier.' The first four answer to this title, being addressed to the preliminary inquiry postulated by the decree of December 3, 1529, as to the part played by the Abbot in the proceedings of the villagers. The last four, on the other hand, bear the stamp of being either interrogatories on behalf of the Abbot, or interrogatories draughted by the commissioners themselves. They ask for an exact account of the number of acres inclosed by Mulsho since More's decree, and of his expenditure thereon.

The return of these commissioners has not survived, and we are left to infer it from the replication of John Mulsho, perhaps of the date of Hilary Term, 1531.<sup>4</sup> This tells us that the commissioners reduced his claim from 40*l.* to 34*l.* 15*s.* 4*d.*, for half of which they reported the Abbot liable. It is clear, therefore, that they held Mulsho's accusation of the Abbot, as having incited the villagers to destroy his inclosures, proved. On the other hand, they considered Mulsho's demand of 40*l.* as excessive. Apparently their report was adopted, and made an order of the Court. The Abbot, however, was not prompt to pay, perhaps because he was himself plaintiff against Mulsho in a synchronous suit in Chancery for the encroachment alleged upon the abbey land.<sup>5</sup> As nothing is afterwards said about the payment of the award of 34*l.* 15*s.* 4*d.*, it may be inferred that the order of the Court upon this point had been obeyed.

<sup>1</sup> S, p. 56.

<sup>2</sup> It is to be noted that Sir John Mordant was one of the commissioners of 1528 whose impartiality was assailed by Selby. It is clear that this commissioner's defence was held satisfactory. Nor is Chief Justice Brudenell's to be supposed otherwise, for, as he died on January 30, 1531, it is probable that in November 1530 he

was in infirm health. At the time of his death he was about seventy years of age.

<sup>3</sup> T, p. 57.

<sup>4</sup> P, p. 51. Attached for convenience, though out of chronological order, to the preceding pleadings.

<sup>5</sup> P, p. 52, where Mulsho's meaning is obscure.

For the next stages in this eventful history the reader must leave the documents of the Star Chamber and turn to the cases in the Appendix printed from the documents of the Court of Requests.<sup>1</sup> Defeated in their crusade against John Mulsho's inclosures, the tenants, doubtless not without help from their friend the Abbot, reverted to their contention that the fines exacted from them by John Mulsho on the renewal of their tenancies were unreasonable. The battle raged round the demand of 30s. from Henry Selby, which still remained unpaid. Between 1531 and 1535, in which latter year John Mulsho died,<sup>2</sup> they rained successive suits upon him. The money was found 'at their common chargeys and common pursse,' at meetings described by Thomas Mulsho, John Mulsho's heir, in common form as 'riotous,'<sup>3</sup> by way of justifying the intervention of the Star Chamber. Of these proceedings, the earliest appears to have been an action upon a writ of 'Monstraverunt' sued out in the Court of Common Pleas by Selby against John Mulsho. Greatly to Mulsho's disgust, Selby was allowed to sue 'in formâ pauperis' and had four serjeants and an attorney placed at his disposal. The Common Pleas transferred the trial of the issues to the Justices of Assize at Northampton, probably on the summer circuit of 1531.

It will be remembered that during the proceedings before the Commissioners of 1529, the tenants had set up the claim of Ancient Demesne, and that upon this issue no decision had been taken. Ancient Demesne was 'Terra Regis Edwardi' in Domesday,<sup>4</sup> and carried with it exceptional privileges. Among them was that of tenure by certain, that is, fixed services. 'The notion from which all inquiry consequent upon a "Monstraverunt" starts is always this, that the tenants were holding by certain (*i.e.* by fixed) services at the time when the manor was in the king's own hand. The certainty is not created by the fact that the manor passes away from the king to someone else; it existed when the land is royal land and therefore cannot be destroyed on land that has been alienated.'<sup>5</sup> But this rule of certainty of services did not extend to all holders upon Ancient Demesne. We know from Britton that 'in the same manors of Ancient Demesne

<sup>1</sup> Pp. 307-31.

<sup>2</sup> Esc. anno 27 Hen. 8, No. 112. J. Bridges, 'History of Northamptonshire' (1791), ii. 258.

<sup>3</sup> U, pp. 59, 60, 61, 67.

<sup>4</sup> It could only be proved by Domesday, whence the extracts, K (p. 34). It was laid down by the Court of Common Pleas

in 1375 that 'Auncien demesne sera aiudge par le liver de Domesday qui est de record et nemy en autre maner.' Y. B. Trin. 49 Ed. 3, pl. 8, Fitzherbert, Abridgment, 'Monstraverunt,' 4. P. Vinogradoff, 'Villainage in England' (1892), p. 110, n. 1.

<sup>5</sup> P. Vinogradoff, 'Villainage in England,' p. 108.



there are also pure villeins, both by blood and tenure, who may be ousted from their tenements and from their chattels at the will of their lords.' <sup>1</sup> Now the essential mark of 'pure' villainage, that is, the villainage of the 'nativi,' as distinguished from that of the 'villain,' was liability to uncertain services. 'Tenir en pure villenage est a faire tout ceo qe le seignour luy voet commaunder.' <sup>2</sup> In process of time, when, as in the early part of the sixteenth century, serfage of this sort had all but disappeared, 'attempts were made in such cases to take advantage of the general term "men of Ancient Demesne," and to argue that all the population on the Crown manors must be of the same condition, the difference of rank applying only to the amount and the kind of services, but not to their certainty, which ought to be taken for granted.' <sup>3</sup> Such, it may be gathered from Mulsho's answer to Selby's bill in the Court of Requests, was the contention of these tenants. <sup>4</sup> They were socage-tenants, and Mulsho's Court Roll, shewing them to be copyholders subject to uncertain fines, was roundly denounced by Selby as forged. This charge Mulsho indignantly denied, and gave the name of the under-steward who was responsible for the entries. <sup>5</sup> According to him, in this, as in the case of the other bills, their allegations were proved to be 'vtterly false and ontreu.' There is no suggestion in the pleadings that the plaintiffs were 'bond of blood,' and therefore 'talliabiles de alto et basso ad voluntatem domini.' <sup>6</sup> The criterion applied was that of tenure.

Upon the frequency of tenure of bond-land by freemen, it is needless to insist. <sup>7</sup> In ordinary manors such tenures had long since, in the sixteenth century, passed insensibly into copyholds regulated by the custom of the manor. In manors of Ancient Demesne, the case was somewhat different. The theory of the Crown was that an act of resumption was as reasonable as an alienation, and that, in view of such a contingency, the rights of the lord, whether Crown or alienee, ought not to be impaired. The doctrine is set out by Edward 1, in the Register of the Ancient Demesne Manor of Stoneleigh, Warwickshire, quoted by Professor Vinogradoff. <sup>8</sup> 'Nos attendentes quod huiusmodi alienaciones et consuetudinum mutaciones eciam in nostri et heredum nostrorum preiudicium et exheredacionem cadere

<sup>1</sup> Britton, III. ii. 12. See I. S. Leadam, 'The Inquisition of 1517,' in 'Trans. R. Hist. Soc.' N.S. vi. (1892), p. 199.

<sup>2</sup> Old Tenures (temp. Ed. 3), ed. 1525, p. 6; Leadam, *ib.* p. 196.

<sup>3</sup> Vinogradoff, p. 144, where illustrations are given.

<sup>4</sup> P. 320.

<sup>5</sup> P. 321.

<sup>6</sup> Placit. Abbrev. T. T., 30 Ed. 1, Northt. p. 246.

<sup>7</sup> Leadam, 'Trans. R. Hist. Soc.' N.S. vi. 202-207.

<sup>8</sup> Reg. p. 30; 'Villainage in England,' p. 107, n. 5.

possent, si manerium illud in manus nostras aliquo casu deuenierit sustinere nolumus sicut nec debemus manerium illud aut ea que ad illud pertinent aliter immutari quam esse solebant temporibus predictis.' Nevertheless, this declaration of conservatism did not necessarily carry with it a perpetuation upon manors of Ancient Demesne either of serfage or of unprotected tenure. As Professor Vinogradoff has shewn, the tradition of Ancient Demesne, inherited from the Saxon period, was the legal protection of the peasantry.<sup>1</sup> The policy of the king's courts, markedly so towards the end of the fifteenth century,<sup>2</sup> was active in the same direction. In this way the tenants upon Ancient Demesne—in their origin less frequently servile than those upon private estates—tended to exhibit, in process of time, fewer signs of liability to arbitrary exactions. Hence the confusion of classes originally distinct which, as has been seen, tended to establish itself.

There existed, however, upon manors of Ancient Demesne, a class, who were neither bond in blood and tenure, nor villein-sokemen, nor yet free socagers. In his description of the classes upon Ancient Demesne, Bracton says that there are some who do not hold in villein-socage with its fixed services, though like the villein-sokemen they are free. They hold 'per quamdam conventionem quam cum domino fecerunt; et ita quod quidam eorum cartas habent et quidam non.'<sup>3</sup> It is obvious that these tenants, when the son succeeded the father in the tenancy, must have been governed by custom, which became, in fact, the 'conventio.' That this was so we know. By the sixteenth century they were scarcely distinguishable from common copyholders.<sup>4</sup>

If the failure of the tenants of Thingden upon the writ of 'Monstraverunt' was not due to a decision based upon these considerations, as Mulsho's language suggests, are we driven back to the conclusion that the judgement must have held that the manor of Thingden was not Ancient Demesne at all? Professor Vinogradoff<sup>5</sup> gives reasons for his assertion that the year '1066 and not 1086 is the decisive year for the legal formation of this class of manors,' that is, they must have been constituted royal demesnes before the death of Edward the Confessor, and, as such, have passed to William the Conqueror. The circumstance that, in 1086, when the survey was taken, the King held the

<sup>1</sup> 'Villainage in England,' p. 123.

<sup>2</sup> See Leadam, 'Trans. R. Hist. Soc.' N.S. vi. 238-246; also 'Eng. Hist. Rev.' (October 1893), 'The Security of Copyholders in the Fifteenth and Sixteenth

Centuries.'

<sup>3</sup> Bracton, f. 7.

<sup>4</sup> W. Blackstone, 'Commentaries,' bk. ii. ch. 6, vol. ii. p. 99.

<sup>5</sup> *Ib.* p. 90.

manor, could not impose upon it the character of Ancient Demesne, for, according to the theory of Norman lawyers, 'the Conqueror got, by right of conquest, all the land of the realm into his own hands in demesne . . . except religious and Church lands, and the lands of Kent.'<sup>1</sup> The King's demesne and Ancient Demesne were, therefore, far from being co-extensive. Nor was any loophole open through which one could pass into the other. The commercial advantages incident to Ancient Demesne rendered its precise limitation of importance to every lord and borough in the kingdom. No manor could be freshly enrolled in that favoured class. It must be accredited by the stamp of Domesday.

Bearing in mind these features of Ancient Demesne, let us turn our inquiry to Domesday. The entry as to Thingden, translated from the Latin, runs as follows: 'The King holds Tingdene. Queen Edith held (it). In Neveslund Hundred. There are 27 hides with appendants. There is land for 54 ploughs. In demesne there are 3 hides and there (are) 4 ploughs and 7 serfs and 30 villeins and 15 bordars with 11 ploughs and 50 sochmen with 24 ploughs. There (are) 2 mills rendering (de) 18 shillings and a third rendering (de) 16 shillings. There (are) 50 acres of meadow. Wood(land) 1 league in length and half a league in breadth. In King Edward's time it rendered 20 pounds by tale; now (it renders) 40 pounds by weight of 20 (pence) to the ounce. The 50 sochmen render yearly for the soc (de soca) 8 pounds and ten pence. The land of this manor lies thus,' etc.<sup>2</sup>

Queen Edith, the widow of Edward the Confessor, as daughter of the great Earl Godwine, held large possessions in her own right and granted land away independently of her husband even in his lifetime.<sup>3</sup> If the judges of the Court of Common Pleas decided that Thingden was thus held by the Queen, they were probably justified in the conclusion that it was not Ancient Demesne. But such a decision would have involved the application in the sixteenth century of Anglo-Saxon legal principles, in itself improbable. Further, in his petition to Cromwell, Henry Selby asserts, presumably as a guess, that 'the said Towne and lordeshipe with the appurtenaunces was and belonged unto the said late kyng (Edward the Confessor) and to his Quene (Edith) as parcell of her dower as it dothe and at all tymes ys Redy to appyere

<sup>1</sup> Bacon, 'Use of the Law,' Works (ed. Ellis and Spedding), vii. 481; cf. Coke upon Littleton, § 58 b. 'The first kings of this realme had all the lands of England in demeane'; and ib. § 1.

<sup>2</sup> The rest of the entry simply gives the distribution of the hides among the Hundreds.

<sup>3</sup> T. M. Kemble, 'Codex Diplomaticus Aevi Saxonici,' iv. 256, 7.



in A booke callyd the booke of Domysday.<sup>1</sup> It has been seen that Domesday, is, unfortunately, not so explicit.

This suggestion raises fresh questions. The common form of dower among the Anglo-Saxons was the 'morning-gift.'<sup>2</sup> This 'endowment' appears to have been strictly in the wife's power: in several wills the husband carefully points out the lands to which his wife has this claim; and in several cases women appeal to it as their title to lands which they are desirous of alienating.<sup>3</sup> The doctrine, in the case of a named or assigned dower, survived the Conquest, and was the reason of the separate examination of the wife in the procedure of levying a fine of lands. Assuming Thingden to have been the Queen's dower, the judges may have held that this character deprived it of the character of Ancient Demesne. The Queen's rights had become 'true proprietary rights'<sup>4</sup> before the Confessor's death, at which the category of Ancient Demesne became fixed. To assist them to this conclusion it would not have been necessary to carry their researches beyond the pages of Bracton.<sup>5</sup> On the other hand, in the sixteenth century, and long before, there stood the fixed principle: once Ancient Demesne always Ancient Demesne. The plea advanced by Selby's lawyer that the land was held in dower was intended to be, and probably would, if accepted, be judicially interpreted as being, land in Ancient Demesne.

While there is among these documents no extract from Domesday regarding Thingden, we have<sup>6</sup> two copies, one of them certified by the Treasury, concerning 'Fixetone.' The strange thing about this 'vera copia' is that the facsimile of Domesday shews plainly that, with the customary indifference of the sixteenth century to accuracy in spelling, the copyist's transcript is incorrect. The Domesday entry begins: 'Rex tenet Fextone.' The entire entry, translated, runs: 'The king holds Fextone. There are 2 hides. There is land for 12 ploughs. In demesne there are 3 ploughs and 6 serfs and 6 villeins and 9 bordars with 3 ploughs. There (are) 16 acres of meadow. . . . The whole in King Edward's time (T. R. E.) rendered 15 pounds, now it renders 16 pounds.'

It cannot be doubted, and Bridges<sup>7</sup> and Round<sup>8</sup> both assume, that this entry relates to Faxton. The question then arises, What is it

<sup>1</sup> Append. p. 325. Edith's own lands appear to have been in Wessex.

<sup>2</sup> K. E. Digby, 'Introduction to the History of the Law of Real Property' (4th ed. 1892), p. 127.

<sup>3</sup> J. M. Kemble, 'Codex Diplomaticus Aevi Saxonici' (1839), i. cx.

<sup>4</sup> Pollock and Maitland, 'Hist. of English Law,' ii. 420-422.

<sup>5</sup> F, 299 et seq.

<sup>6</sup> K, p. 34.

<sup>7</sup> 'Hist. of Northants,' ii. 93.

<sup>8</sup> 'Victoria Hist. of Northants' (1902), i. 306.

doing among the documents relating to Thingden? It may perhaps be suspected that this attested entry was put in evidence with the object of perverting justice. Thingden, it is true, does not resemble Fextone or Fixetone, but the difference is less marked if it be borne in mind that as Bridges,<sup>1</sup> writing towards the close of the eighteenth century, tells us, the name is 'in common pronunciation Findon,' and was perhaps sometimes so written. Now Fextone, held by the king in 1086, was held by the king in 1066, and therefore was Ancient Demesne. It may be conjectured that counsel for the tenants, with an audacity which, the adverse judgement of the Star Chamber indicates, did not escape detection, doubtful of the contention that Edith held Thingden in dower, attempted to substitute the entry as to Fextone for the entry as to Thingden, and so to steal a decision in their favour. It is, however, conceivable that the transcript was made by mistake, but, if so, it was an example of carelessness so gross as to be scarcely credible, seeing that, as the facsimile of Domesday proves, the column in which Fextone is entered immediately precedes and, when the book is open, is opposite the column containing Tingdene. That this entry should have been put in evidence in support of the case of Mulsho does not seem possible.

Whatever the explanation may be of these extracts from Domesday, there is the fact that Mulsho in his pleadings in the Star Chamber, does not, in precise words, deny that the manor was one in Ancient Demesne. Nor, if the evidence produced by Selby to the Court of Requests were true, was he in a position to do so. According to the commissioners deputed by the Court of Requests on August 8, 1534 to deal with the dispute, Selby produced an exemplification of Domesday under the Great Seal 'to prouue that the seid towne of Thingden shuld be Auncient demene.' More than this, he produced an exemplification of an Inquisition of the time of Richard 2, 'by the wiche it apperith that the inhabitaunce of the seid towne of Thyngden for that they holde in Aunciant Demene schulde be discharged of Tole.'<sup>2</sup> It will be observed that, while they commit themselves to no opinion as to the significance of the extract submitted to them from Domesday, the commissioners seem to accept the evidence of the inquisition, which unhappily has vanished, as conclusive. This evidence, as their report shows, was not met with a negative by Mulsho. He continued to rely upon his court rolls and customaries, which said nothing of Ancient Demesne, but proved the existence on his manor of copyholders of an ordinary type. Lastly,

<sup>1</sup> ii. 256.

<sup>2</sup> P. 329.

Selby cited the example of the steward of the manor himself. Part of it was in the hands of Chief Justice Brudenell. In his defence in the Court of Requests, in 1534, Mulsho tells us that Brudenell's practice as to fines was cited by Selby as evidence of his contention that the manor was Ancient Demesne and that, as a tenant, he was entitled to the fine customary on such manor.<sup>1</sup> It is to Brudenell, therefore, that Selby probably refers when he says, at the conclusion of his letter to Cromwell, that 'the said Stuarde keping Cortes for one of the Copartiners beyng lorde of one parte of the said Towne . . . vsith thle tenauntes Rightfully and After the tenure of Auncyent demeane.'<sup>2</sup>

The conclusions derivable from this review of the probabilities as to these contested points are that both parties were, in a measure, justified in their allegations. There is sufficient evidence that the manor, as a whole, was a manor in Ancient Demesne and had, in a judicial proceeding of the fourteenth century, so been held. There was also evidence, apparently sufficient to satisfy the various Courts before which these disputes were threshed out, that there, nevertheless, did exist, at any rate on that part of the Domesday manor which was in the hands of Mulsho, a number of tenants, of whom Selby was one, who were legally in the position of ordinary copyholders. If so, they would be, as ordinary copyholders were, liable to uncertain fines, an uncertainty, nevertheless, much mitigated both by the doctrine and practice of the law.

Even when defeated on the 'Monstraverunt,' the tenants undauntedly continued litigation. In 1533, as we learn from John Mulsho's answer to Selby's bill of 1534 in the Court of Requests, Selby filed a bill in Chancery against Mulsho. The Chancellor, Sir Thomas Audley, dismissed it with contumely, and threatened to have Selby's ears nailed to the pillory.<sup>3</sup> It was now John Mulsho's turn to strike. According to Thomas Mulsho<sup>4</sup> a manifestation in favour of the intrepid Selby, described by him as 'riotous,' took place at Northampton on February 25, 1534. The meeting was for the collection of subscriptions, 'a common purse,' to pursue their legal disputes with John Mulsho. It is probable that it was also a demonstration in favour of Selby and his wife against whom Mulsho, in this year, and it may be conjectured, at this time, had preferred an indictment for trespass accompanied, it must be inferred, by breach of the peace. The trespass, doubtless, was the re-entry by Selby

<sup>1</sup> P. 318.

<sup>2</sup> P. 323.

<sup>3</sup> P. 323.

<sup>4</sup> U, p. 61.



upon the holding from which he had been evicted. Selby was fined 6s. 8d. and the bailiff of the Abbot of Peterborough, the lord of the Hundred, distrained a cow in default of payment. Mulsho also induced a neighbour and magistrate to take the strong step of arresting both Selby and his wife as a preliminary to binding them over to keep the peace. It was an unfortunate beginning of the year for the tenants of Thingden. On March 6 their friend, the Abbot of Croxston, died.<sup>1</sup>

Selby, reinforced in purse by the contributions of his friends and neighbours, filed, apparently in Trinity Term, 1534, a bill against John Mulsho in the Court of Requests, also known as the 'Court of Poor Men's Causes.' The bill, besides recapitulating his legal contentions, gives a history of the dispute to date.<sup>2</sup> The plaintiff states also, what was very probably true, that John Mulsho was barring the tenants out of his manor court, where, as Thomas Mulsho's experience afterwards shewed,<sup>3</sup> they were not in a humour to find presentments favourable to the lord. His resistance to illegal oppression, he adds, has brought him to great poverty, as was likely to be the case. He concludes with a prayer for a commission of inquiry. To this John Mulsho filed a prolix answer.

The commissioners selected were probably not such as Selby expected, nor can it be said that the selection was made with careful discrimination. There is no reason to suppose that the Court of Requests was familiar with the history of the case of recent years. The first commissioner was a Northamptonshire landowner, an unexceptionable choice, so far as is known—Sir Humfrey Stafford. The second was the son and heir of the Chief Justice Brudenell, whose conduct, when commissioner in 1528, Selby had so violently assailed. The third was the Edward Warner who, as a magistrate, had been persuaded by Mulsho to commit the illegality of arresting Selby and his wife in order to bind them over to keep the peace. All that can be said for such a choice is that they were not a tribunal for adjudging the questions at issue, unless by consent of the parties. Their commission was to ascertain the facts and to report them to the Court. Meanwhile, according to a practice common at that day, Cromwell wrote a letter at the instance of Selby, who must have had influential friends, giving 'commandment' to Mountague, as steward of the manor, to settle the question of the fine. Mountague, according to Selby, shewed some contempt for the Minister's letter, and declined to make a settlement, at least in Selby's sense.

<sup>1</sup> L. and P. Hen. 8, vii. 297.

<sup>2</sup> Appendix, p. 307.

<sup>3</sup> U, p. 66.

The Privy Seal constituting the commission, is dated August 8, 1534, but the commissioners did not return their 'certificate,' or report, till January 20, 1535. In the interval, Selby wrote a piteous letter to Cromwell, evidently intended to elicit his intervention with the commissioners, throwing doubts upon Mulsho's title, and urging that Mountague, the steward of the manor, should be ordered, upon a penalty of 1000*l.*, to 'mynstre and doo true justice' by a certain day.<sup>1</sup>

It may be taken that Cromwell did not interfere a second time. The report of the commissioners was, on the whole, unfavourable to Selby's contention, so far as his claim to a freehold was concerned. Not many months after this report, probably during the first half of 1535, John Mulsho died. Selby remained undisturbed in his holding, and, never having been admitted as a tenant, paid no rent. John Mulsho's grandson and heir, Thomas Mulsho, was young, and, for a space, Thingden slumbered in peace.

The struggle was, however, presently renewed, perhaps on occasion of Thomas Mulsho pressing a demand for rent. At any rate, about Michaelmas Term, 1537, Selby filed another bill in Chancery, Thomas Mulsho being now defendant. That bill has not survived, but we know the issue of it from Thomas Mulsho.

The tenants, having been defeated in the Common Law Court on the writ of 'Monstraverunt,' were estopped by the judgement from advancing a claim to a fine certain. They were, nevertheless, still at liberty to reject as 'unreasonable' the fine of 30*s.* which Thomas Mulsho followed John Mulsho in demanding of Henry Selby. It was laid down in a case nearly sixty years later, but one which professed to be an exposition of the law of custom governing copyholds that a copyholder might refuse payment of a fine, if unreasonable, without incurring forfeiture.<sup>2</sup> And it was universally recognized that 'reasonable' was, as Coke phrases it,<sup>3</sup> 'not to be understood of every unlearned man's reason, but of artificial and legal reason, warranted by authority of law,' i.e. of precedent. So far as we know, the only precedent for the demand of 30*s.* was the payment of 26*s.* 8*d.* in 1499,<sup>4</sup> and all the general allegations of Thomas Mulsho as to the evidence of his court rolls<sup>5</sup> can be taken to have proved is that his fines were uncertain.

Seeing that this question of the reasonableness of the fine demanded must have been threshed out before, if not against

<sup>1</sup> Appendix, p. 327.

<sup>2</sup> *Jackman v. Hoddesdon*, M. T., 36 and 37 Eliz., Croke, Rep. 351.

<sup>3</sup> On Littleton, § 61 b.

<sup>4</sup> G., p. 23.

<sup>5</sup> P. 316.

Thomas, at any rate against John Mulsho, it is not altogether surprising that Lord Chancellor Audley took the view that the proceedings of Henry Selby and his friends were vexatious. Selby was accordingly committed to the Fleet prison, presumably for abuse of the process of the Court.

Thomas Mulsho took occasion of Selby's imprisonment to seize his holding. Selby had paid no rent for twelve years, and had refused to pay the fine. It may be supposed that Mulsho's proceedings quickened Selby's anxiety to come to terms, and the Court appears to have suspended its decree, possibly with the hope that the parties might arrive at an amicable settlement. After a short imprisonment, Selby purged his contempt, and in the closing days of 1537, the Chancellor gave judgement. He laid an injunction against further proceedings by or on behalf of Selby against Mulsho. On the other hand, Selby was to be readmitted to his holding on payment of such fine as Mulsho might assess, and of forty shillings in satisfaction of the twelve years' rent due. The rent due to Mulsho, as stated by Selby in document E,<sup>1</sup> was 6s. 3½*d.* The full rent due, taking no account of interest, at this time illegal, would be 3*l.* 15s. 6*d.* So startling a reduction as over fifty per cent. indicates a suspicion that the fine assessed or to be assessed by Mulsho was likely to be heavy, if not legally 'unreasonable.' But while pecuniarily the path was smoothed for Selby's re-entry, this concession was balanced by the infliction upon Selby of humiliating conditions, such as, at least down to the time of the Great Rebellion, authority loved to impose. Selby was to make public acknowledgement at the next manorial Court of the groundlessness of his claim, to ask forgiveness on his knees and humbly to request that his submission might be entered in the Court Rolls.

For this manifestation of his triumph, Thomas Mulsho ordered a Court to be held at Thingden on January 9, 29 Henry 8 (1538), by Edward Mountague, now serjeant-at-law,<sup>2</sup> the steward of the manor. The summons convening it must have been issued in the last days of the old year, for on January 1, Henry Selby, with his most prominent supporters, John Walter, and a number of others, forty in all, held a meeting, described in the usual common form as 'riotous.' The outcome of their deliberations was, according to Thomas Mulsho, that at the court to be held Henry Selby should 'renounce and forsake the decre and order made by my said lord chauncelor and the courte of chauncery.'

<sup>1</sup> P. 17.

<sup>2</sup> P. 65.



In expectation of this audacious defiance, eight of the neighbouring gentry, clerical and lay, besides 'dyvers other persones' and most of the inhabitants, assembled at the Court at Thingden on January 9. The decree of the Court of Chancery was read. The lord, Thomas Mulsho, and the Steward declared their readiness to perform their parts, and called upon Henry Selby to do his. Selby refused: 'it was to harde for hym to abyde.' The jury of copyholders, instead of presenting the forfeiture of his holding, refused to make any presentment at all. The next business was a surrender of a mease and a yard land and a half of copyhold by Thomas Knyght to the use of Thomas Walles. One of the leaders in the former disturbances, Thomas Makernes, acting as attorney to Thomas Knyght, proposed a form of surrender of the holding as socage in Ancient Demesne, 'and not at the wyll of the lord nor after the custom of the manor.'<sup>1</sup> Upon the refusal of the Steward to enter the surrender in such form, the jury again refused to make any presentment, and the business of the Court fell through. It does not appear that any violence was offered, though Thomas Mulsho suggests that it was contemplated.

In the following term of 1538 Thomas Mulsho filed a bill of complaint in the Star Chamber, printed as document U, which recounts this latter part of the story. It ends with a petition for the issue of writs of subpœna against John Walter (who now figures as the inspirer of Selby's obstinacy), Henry Selby and others who had been prominent in these turmoils.

With this petition the legal documents known to survive unfortunately end. Its issue was, however, discovered by the historian of Northamptonshire in the course of his researches. Of Thomas Mulsho he records: 'This gentleman in the thirtieth of Henry 8 (1538-39) obtained a decree in the Star Chamber, by which it was determined that the copyholders of Thingden manor are not a fine certain.'<sup>2</sup>

It is possible that in the welter of confusion in which the records of the Star Chamber yet remain, the missing parts of this litigation may some day be found. Imperfect though it be, the history of this prolonged conflict, renewed in so many Courts, illustrates the fact that it was to the Crown that, under the Tudor government, the peasantry confidently looked for support against oppression, and to this sense, despite his rapacity and extravagance, Henry 8 owed much of his popularity.

<sup>1</sup> See p. 16, n. 4.

<sup>2</sup> Bridges, ii. 258.

The case of the Abbot of Peterborough v. Power and Others<sup>1</sup> is interesting from the legal point involved, and also as one of those which illustrate the relations of the people of a thriving town to the great monastic house under whose rule they lived. At Peterborough there was no mayor nor corporation. The mitred Abbot, a lord of Parliament, was supreme. He laid claim to the highest spiritual immunities, which he founded upon an alleged Bull from Pope Agatho, denounced by Bishop Stubbs as 'a most shameless forgery.' Though his extreme claims of exemption from jurisdiction were not allowed, the Abbot was, at any rate, subject to no ecclesiastical superior but the English Primate, perhaps in virtue of the Archbishop's legatine authority as *legatus natus*, and the Pope. Whether or not they were aware of this, the townsmen took occasion of passing visits from the diocesan, the Bishop of Lincoln, to crave his intercession with the Abbot. The Bishop, as he mounted his horse to ride away, gave them comfortable words, and there an end.

Abbot of  
Peter-  
borough v.  
Power and  
others.

The complaint in this case came from the Abbot and was made to the Star Chamber as the tribunal for the repression of violence. The origin of the quarrel was the right of pasture in the waste ground belonging to the Abbot, called the Borough Fen. It was admitted by the Abbot that his tenants who were townsmen 'hadd ther common of pasture in a reasonable maner too and for a serteygn nombur of cattall.' The claim of the townsmen, on the other hand, was 'that they and euery of theyme shall depasture and comen in the same Fenne with ther cattall saunce nombur.' Further, they denied the Abbot, the freeholder, any right to pasture at all.

The right of common in gross, 'for that it appertaineth to no land' and was in this instance claimed by 'Shomakers, Taylours, as also all other craftysmen of the same Towne,' was a right good in law if proved 'by writing or prescription.'<sup>2</sup> 'Of common appendant, appurtenant, and in grosse,' writes Coke, 'some be certaine, that is, for a certaine number of beasts; some certaine by consequent, viz. for such as be levant and couchant upon the land; and some be more incertaine, as commons sauns number in grosse, and yet the tenant of the land must common or feed there also.' Controversy has been raised as to whether common in gross can be sans nombre; but the last proposition seems beyond dispute. 'If,' says Coke, 'a man claime by prescription any manner of common in another man's land, and that the owner of the land shall be excluded to have pasture, estovers or the like, this is a prescription or custom against the law, to exclude the owner of

<sup>1</sup> P. 123.

<sup>2</sup> Coke, 1 Inst. 122 a.

the soyle; for it is against the nature of this word common, and it was implied in the first grant that the owner of the soyle should take his reasonable profit there, as it hath been adjudged.' As the case cited by him belongs to 26 Elizabeth, it need not concern us here, and Coke's reasoning appears unanswerable.

In June 1517 the townsmen, finding their cattle driven off the fen or impounded by the Abbot's servants and the fen inclosed, broke open the fences, cut and carried off the grass, and turned their cattle in again. In August they invaded the precincts of the Abbey and were admitted to an interview with the Abbot and the Bishop of Lincoln in the Lady Chapel. The Abbot and his witnesses gave evidence of their threatening language and demeanour. Throughout the summer the quarrel continued. The defendant John Power, a gentleman, broke the head of John Holte, one of the Abbot's servants. The townsmen presently conceived the plan of paralysing the Abbot's power as manorial lord by controlling the elections of the municipal officers in the manorial courts. They exercised their function of presenting officials for selection by putting forward their own sympathisers and rejecting the steward's nominations. In the Court leet held at Michaelmas the jury refused to find a presentment against the defendant Power. An appeal lay to the Court of the Hundred. Both sides endeavoured to pack the jury, but the Abbot's officials were successful and a true bill was found against Power, with what result we are ignorant. Meanwhile, as the Abbot complains, the town of Peterborough was destitute of duly appointed officers.

It is probable that the determined demeanour of the townsmen was due in part to a sense that the government was hostile to inclosers. These outbreaks took place in the year in which Wolsey had nominated a commission to inquire into inclosures with the object of enforcing the law against them. The inquiry had already begun and Abbot Kirkton was being pilloried as one of the principal offenders. The returns for Northamptonshire are incomplete, but the Abbots of Peterborough are entered as responsible for the inclosure of 998½ acres in that county and for the eviction of 100 persons who, according to the finding of the jury, 'miseri facti sunt.' We know that the defendants in this case carried to the Commissioners on Inclosures their complaint that the Abbot had thrown part of their churchyard into his park. The language of the jury which found the presentment returned by the Commissioners to the government attests the liveliness of their resentment: 'Et dicunt quod predictus Abbas nuper fuit seisitus in dominico suo vt de feodo in iure Monasterii predicti de vno mesuagio



et quadraginta acris terre arrabilis ad annum valorem viginti solidorum in Peterburgh predicta in Comitatu predicto que terre cum mesuagio illo locari tradi et occupari solebant ac de duodecim Cotagiis et sex acris terre cum pertinenciis in Peterburgh predicta in Comitatu predicto et sic inde seisitus secundo die Januarii anno regni predicti nuper Regis secundo <sup>1</sup> mesuagium terras et Cotagia illa vna cum vna acra terre parcella Cimiterii ville predictae sepibus et palis inclusit et imparcauit ac mesuagium et Cotagia illa prosterni fecit et sic existere adhuc permittit et cum terris et tenementis et parte Cimiterii predictis parcum suum vocatum Meldesworth elargauit et feras in tenementis illis modo nutriat <sup>2</sup> et habet per quod vnum aratrum deponitur et quinquaginta persone que in mesuagio et Cotagiis predictis morari et permanere solebant abinde recesserunt et habitaciones alibi querere coartate fuerunt ac quod magis dolendum est in Cimiterio predicto vbi corpora fidelium sepeliebantur et requiescuntur modo fit pastura ferarum etc.,' <sup>3</sup> an eloquent commentary on the humane administration of their estates currently assumed in favour of the monastic landlords.

The case of the Prior of Bradenstoke against Anne is unfortunately restricted to the Prior's Bill of Complaint. If the Prior's petition to the Star Chamber for redress were justified by the difficulty of obtaining justice from an Oxfordshire jury, the tenure of land by ecclesiastics must have been generally unpopular or he himself have given umbrage to the county. This second alternative is improbable, since Bradenstoke is in Wiltshire and the Prior is not likely to have frequently visited the only possession of his House in Oxfordshire. It is the more remarkable that he charges the defendant with the conversion of tillage to pasture and the decaying of houses which, as the returns of the Commissioners of Inclosures of 1517 plainly shew, were unpopular proceedings. The whole circumstances of the case, assuming his complaints against the defendant to be true, point to dislike on the part of the agricultural classes to the monastic landlords.

Prior of  
Bradenstoke  
v. Anne.

Among the causes of the unpopularity of the religious houses with the commercial classes was their rivalry in trade. Of this a striking example is to be seen in the complaint of the Mayor, Aldermen, and Commonalty of Newcastle-on-Tyne against John Stanwell, Stonwell, Stonewell or Stonywell, Prior of Tynemouth.<sup>4</sup> The house was a cell of

Mayor of  
Newcastle v.  
Prior of  
Tynemouth

<sup>1</sup> 1487.

<sup>2</sup> Sic.

<sup>3</sup> 'Domesday of Inclosures' (edited by I. S. Leadam, 1897), i. 274.

<sup>4</sup> P. 68.

St. Alban's, and in the year from Michaelmas 1525 to Michaelmas 1526, for which it rendered a *compotus* to Cardinal Wolsey, enjoyed a revenue of 706*l.*, ranking thereby with the greater monasteries. Its rivalry with Newcastle had been secular. In 1264 the men of Newcastle, headed by the Mayor, Nicholas Scot, had attacked the town of Shields, lately built by the Prior, set fire to the houses, carried off a shipload of coals, and inflicted damage on the property of the monastery amounting to 300*l.* The cause of the conflict was the Prior's endeavour to set up Shields as a rival to Newcastle by encouraging ships to load and discharge in its port and by the provision of public bakehouses, staiths and wharves. The dispute was brought before Parliament in 1290, and on July 15, 1292, judgement was delivered against the Priory and the wharves ordered to be removed.<sup>1</sup> But a hundred years later the Priors again embarked in trade. Four acres of land below high-water mark were reclaimed, two hundred houses were built, the erection of thirteen bakeries encouraged ships to victual at Shields, and staiths enabling them to load and discharge at all times of the tide were constructed along the shore. In 1433 the monks bought a ship and became exporters of fish, salt, and coal. Their fishgarths, or inclosures for fish, and salmon weirs stretched across the Tyne. Three years later they extracted from the pious weakness of Henry 6 grants of the custom and toll of the vessels loading and discharging in their port, a concession withdrawn by an Act of resumption in 1450. Possibly as a reward for their attitude upon the occasion of the abortive attempt of Margaret of Anjou against Newcastle in 1462, Edward 4 granted the monks the right to load and unload their cargoes of salt and coal without any impediment from the men of Newcastle. The commercial tradition received fresh stimulus after the election of Prior Stanwell, as he is here called, or Stonywell, as the Letters and Papers spell it, which probably took place in 1505, upon the translation of Prior John Benestede to the abbacy of Whitby. Wolsey, it appears, was his patron, for on November 14, 1519, the Cardinal, as legate *de latere*, granted Stonywell exemption during life from the jurisdiction of the monastery of St. Alban's.<sup>2</sup> This was an important privilege, for the abbots of St. Alban's had frequently intervened in the government of the house of Tynemouth, and in 1478 had deposed its Prior. The protection of Wolsey perhaps accounts for the boldness of the Prior's proceedings. It is unfortunate that his defence has not been preserved, but the dispute was referred by the Star Chamber

<sup>1</sup> Rot. Parl. i. 26.

<sup>2</sup> L. and P. Hen. 8, iii. 510.

to arbitrators, and their award, delivered March 23, 1512, and yet extant, sets out the points at issue. The arbitrators were the Bishops of Norwich and Coventry and Serjeant Elliott. They gave judgement in the Prior's favour on the controverted questions of jurisdiction, presumably leaving those aggrieved by false imprisonment to their remedy in the King's Courts.<sup>1</sup>

A letter written by Richard Bellosis to Wolsey is printed among the Letters and Papers of Hen. 8, iv. 3227, of the date July 3, 1527. It speaks of an inventory having been recently made at Tynemouth 'of what was left by Dan John Stonywell, late prior,' which the writer undertakes to bring to Wolsey when he comes with the rents of Tynemouth. At this time, therefore, the Priory was vacant. On September 30, 1526, the royal assent was given to the election of John Stanywell, Stonywell, or Stanewell as Abbot of the Benedictine house of Pershore, which enjoyed a revenue of 643*l.* a year. He is there described as 'John bishop of Polizzi,' in the Latinized form, *Episcopus Poletensis*. This prelate had proceeded Doctor in Divinity in 1501, being of Gloucester Hall, now Worcester College, Oxford.<sup>2</sup> That Prior Stonywell was of this degree we know from Wolsey's letters of November 14, 1519, already cited. Although Anthony Wood<sup>3</sup> knows nothing of any connexion of Abbot Stanywell or Stonywell with Tynemouth, the coincidences are sufficient to raise a presumption of the identity of the Prior with the Abbot, who probably exercised his episcopal authority as suffragan to Jerome Ghinucci, the non-resident bishop of Worcester and holder of an official appointment at Rome. Stonywell was the last abbot of Pershore, and, having paid court to Cromwell, was rewarded on his surrender with the handsome pension of 160*l.* a year and a residence in the Abbey.<sup>4</sup> He lived till 1553.<sup>5</sup>

Meanwhile, the citizens of Newcastle did not resign themselves to defeat. So long as Prior Stonywell governed the house of Tynemouth and his patron Wolsey, who as Bishop of Durham was interested in South Shields, remained all-powerful as a minister, there was no hope of redress. The removal of Stonywell in 1526, followed by the disgrace of the Cardinal in 1529, revived their spirits. In the Parliament which met on November 3, 1529, an Act was passed establishing their claim to the exclusive right to trade in the port of the Tyne. It is intituled 'An Acte for the Towne of New Castell

<sup>1</sup> Craster, 'Hist. of Northumberland,' col. 758.  
viii. pp. 291, 292.

<sup>2</sup> Dugdale, 'Monast.' ii. 412.

<sup>3</sup> 'Athenæ Oxonienses,' ed. Bliss, ii.

<sup>4</sup> S. P. Dom. Hen. 8, xiv. i. 349; Dugd.

'Monast.' ii. 425.

<sup>5</sup> *Ib.* 412.



upon Tyne concerninge the shippinge of merchaundize and unshippinge therof within the liberties of the said Towne' (21 Hen. 8, c. 18). It recited that 'of late dyvers great personages as well Spirituall as Temporall having landes adjoynyng' had been engaged in an active trade likely to bring Newcastle 'to utter decay and ruyne.' It described the evil consequences of the weirs and fishgarths, which caused the silting up of the river and impeded the navigation to Newcastle. It prohibited the lading and discharge of merchandise except at Newcastle, and ordered the weirs and fishgarths to be 'abated,' giving the corporation power to carry this order into effect. All that was allowed to the rival port, on which so much ecclesiastical energy had been expended, was the trade in salt and fish, granted to Tynemouth by the charter of Edward 4, and the revictualling of passing vessels. The Act marks the supremacy of lay over monastic interests which followed the fall of the last great ecclesiastical minister.

Mayor, &c.  
v. Artificers  
of New-  
castle.

The case of the Mayor and Aldermen 'and certayne the honest Comyners' of Newcastle-upon-Tyne against the 'Artificers, Burgenses and Guildmarchantis'<sup>1</sup> is of importance under two aspects. As a conflict between the trading and artisan classes, it illustrates a controversy round which so much material has gathered that it is impossible to do more than indicate it in these pages.<sup>2</sup> In the Decree of the Star Chamber we see the substantial victory of the capitalist traders, and that the occasion is seized to confirm the constitution of the town upon the oligarchical basis established in 1345.<sup>3</sup>

From the titles above recorded it will be observed that, in Newcastle at any rate, there was no struggle between the gild merchant, representing capital, and the artificers' gilds, representing labour, as portrayed by Professor Brentano in his prefatory essay to 'English Gilds.'<sup>4</sup> The rivalry was one between the gilds of merchants and artisans, both of them claiming the right to trade with their capital and neither party denying the other their membership of the gild merchant.<sup>5</sup> The question at issue was what

<sup>1</sup> P. 75.

<sup>2</sup> For the authorities as to the relations of the gild merchant and the craft gilds see C. Gross, 'The Gild Merchant' (1890), i. 109, n. 3.

<sup>3</sup> Brand, 'History of Newcastle,' ii. 161. For the authorities on the growth of select governing bodies in English towns, Gross, i.

<sup>4</sup> L. Brentano, 'On the History and Development of Gilds and the Origin of

Trade Unions.' See 'English Gilds,' edited by L. Toulmin-Smith, Early English Text Society, 1870.

<sup>5</sup> In his essay on 'The Gild Merchant' ('Surveys Historic and Economic' [1900], p. 218), Professor W. J. Ashley challenges Dr. Gross's assertion 'that the craftsmen, even when associated in separate gilds of each occupation, still remained in the common gild merchant, and that this common gild merchant was afterwards

this membership involved. According to the craft gilds, 'in tyme past the sayde artificers bought and sold all maner of marchaundises and wares att their free libertie . . . without any agrement with other craftis.' It has been questioned whether, in primitive conditions of industry, the raw material was not furnished by the customer, but at the time the gilds were coming into existence, in the twelfth, thirteenth and fourteenth centuries, every master craftsman was a merchant, since he bought his own raw materials and sold his own products. 'De mercatoribus videlicet piscatoribus, factoribus pannorum, tannatoribus,'<sup>1</sup> &c., marks the connotation of the word merchant.

On the part of the trading gilds it was contended that, even so, the right to purchase and sell went no further than the right to deal in the materials of the craft of the workman. Upon this point the craft gilds appealed to the articles for the government of Newcastle, agreed upon in full gild and confirmed by Edward 3 in 1342.<sup>2</sup> The language of those articles is certainly ambiguous. It grants a general right to the burgesses of the town to buy freely what may be necessary to them from the cargoes entering the port. The next provision, that for preventing a 'corner' in any commodity, seems to imply that purchasers were not restricted to one class of commodity, for they were to be compelled, where they had 'ingrossed' ('ingrossum'), to sell to other members of the gild merchant, without profit, so much as might be necessary for the sustenance of them and their families. No distinction is drawn between traders proper and artificers.

The trading gilds of Newcastle, which enjoyed the support of the mayor and aldermen and, it may be surmised, of the capitalist classes generally, were the boothmen ('Bothemen') or corn merchants, the mercers, the drapers and the spicers. The prominence of the boothmen, indicated by their monopoly of a designation naturally applicable to all who exposed wares for sale, tells of the importance of the corn trade with Germany. 'It was the trade in spice which produced probably the first body of wholesale merchants dealing in a special commodity, namely the Grocers.'<sup>3</sup> In London these, and the mercers—that is, general merchants of wares 'sold retail by the little balance or small scales'<sup>4</sup>—had emerged as capitalist trading companies

resolved into the two classes of misteries, mercantile and artisan.' Gross, pp. 115, 127. This case precisely confirms Dr. Gross's propositions.

<sup>1</sup> Rot. Hundr. i. 531; Gross, i. 107.

<sup>2</sup> See B, p. 81, n. a, infra.

<sup>3</sup> W. J. Ashley, 'Economic History' (1892), I. i. 160.

<sup>4</sup> W. Herbert, 'History of the Twelve Great Livery Companies of London' (1837), p. 230. Dr. W. Cunningham, 'Growth of English Industry and Commerce, Early and Middle Ages' (4th ed.), p. 324, n. 4.

as early as the beginning of the thirteenth century.<sup>1</sup> The Drapers' Company of London furnishes an example of the transition from craftsmen to traders. 'The term "draper" was at first used quite generally for anyone making or dealing in cloth.'<sup>2</sup> In 1364 the Drapers' Company received its first charter, the preamble of which shows that the drapers were makers as well as vendors of cloth. The evidence taken in the Newcastle case proves that the differentiation of functions between craftsmen and traders was nearly, though not quite, complete, and for its completion recourse was had to the central government.

That a citizen should carry on at the same time several trades of which the scope was clearly distinguished was against the spirit of the industrial organization evolved in the sixteenth century. But in the process of the evolution it was inevitable that there should be some concerned to conserve the good old times to which in 1519 Clement Armstrong looks back when 'there were no such sort of buyers and sellers of all things as now is. . . . There were not mercers, grocers, drapers, nor such occupations named.'<sup>3</sup> In 1499 the Merchants' gild of St. George at Hull complained that 'men of dyvers occupacions and of crafft,—as tailyours, shomakers and other—presumptuously hath taken uppon theym to by and to sell as merchauntts and in their howses, shoppes, and wyndowes opynly haff shewed much ware and merchaundises of dyvers kyndes which never ware apprentices to merchandise.'<sup>4</sup> An ordinance was, therefore, passed 'that no man of crafft inhabitauntt within this town, burges or other, nether by ne sell any manner ware or merchaundise bot such as aperteyneth to the occupacon and crafft whereto he wasse bounden as apprentice.'<sup>5</sup> Seventeen years later this battle was being fought at Newcastle-upon Tyne.

The complaint of the merchants of Hull does not assert that the trading of craftsmen was a novelty. What was new was rather the possession of capital sufficient to purchase 'much ware and merchaundises of various kyndes.' Small retailers were developing into wholesale dealers. A crowd of witnesses on behalf of the artificers of Newcastle<sup>6</sup> testify that they had sold by retail commodities foreign to their own industry without any agreement with the craft whose industry they might be infringing. For example, John Stroder, a

<sup>1</sup> G. Unwin, 'Industrial Organization in the Sixteenth and Seventeenth Centuries' (1904), p. 79.

<sup>2</sup> Ashley, I. ii. 212.

<sup>3</sup> 'Three Memorials on English Affairs,' published by Pauli under the title 'Drei

volkswirtschaftliche Denkschriften aus der Zeit Heinrichs 8' (Göttingen, 1878), 44, 45. Ashley, I. ii. 216.

<sup>4</sup> J. M. Lambert, 'Two Thousand Years of Gild Life' (1891), p. 158.

<sup>5</sup> *Ib.*

<sup>6</sup> *G.*, p. 95.



smith, retailed corn, as did two dyers, John Nixson and William Hutton. Thomas Üscherr, a weaver, retailed iron; David Mane, a shoemaker, the leader of the craftsmen, retailed wax, hops, and corn; John Robson and Henry Redepeth, tailors, retailed knives, flax, and corn, the latter keeping 'three oppin schoopis for retailling of the same'; John Ewington, a slater, retailed corn, flax, and hemp; three tailors retailed flax, soap, iron, tar, pitch, &c.; two shearmen retailed barley; a cordwainer or shoemaker retailed cloth and linen. There are scores of witnesses to the same effect, and most of them conclude by saying that their dealings took place 'without interruption or agreement,' that is, on the part of the town authorities or of other trades.

It is to be observed of this body of evidence that from the details which are given it would appear that, with a few exceptions, the craftsmen dealing in commodities foreign to their trades trafficked in raw materials and articles of consumption. For example: soap was probably indispensable to the trades dealing in it; bonnets and hats of cloth were not alien to the tailor's industry. The articles which were neither raw materials nor belonging to the vendors' trades were knives sold by tailors, wainscot by a baker and lint by a keelman.<sup>1</sup> But if the list of crafts given in the Decree of the Star Chamber<sup>2</sup> be an exhaustive enumeration of the organized crafts of Newcastle, there did not exist in 1516 any company either of cutlers<sup>3</sup> or carpenters.<sup>4</sup> The commissioners of inquiry, Sir Edward Radclyff and John Bentley, accordingly felt themselves at liberty to report that the artificers admitted the contention of the corporation 'that no artificer or Craftesmen of the seid Towne hath vsed to occupye the Craft or misterye of one othir without Agrement of the seid craft which he desireth to be of.' It is doubtful whether this finding was justified by the evidence. The details of the cases in which 'all maner of merchandises' was bought and sold by craftsmen are not given. Further, Newcastle was affiliated to Winchester and Winchester to London.<sup>5</sup> Now the custom of London, though at times in dispute, was sufficiently well established. 'The seide Richard [Lee] seith that in the Cite of London amonge diuers other custumes it hath ben vsed oute of time of mynde that euery Freman enfranchised in any crafte or Felisshipe of the said citee may & hath vsed to occupie the craft of the occupation of wevers as all other so that they will be contributory to

<sup>1</sup> G, pp. 97-99.

<sup>2</sup> I, p. 103.

<sup>3</sup> The earliest mention of the Cutlers' Company found by Brand is in 1579.

<sup>4</sup> 'Hist. of Newcastle,' ii. 343.

<sup>5</sup> First constituted in 1579, ib. 345.

<sup>6</sup> Gross, i. 250, 253.

such fee ferme as the felisshipe of weavers bere, and pay yerly to the kinge after the rate of his oocupacion of wevynges' &c.<sup>1</sup>

Assuming, however, that at Newcastle it was proved, as it was to the satisfaction of the commissioners, that a craftsman could not migrate to another craft 'without agreement,' to establish which the corporation brought a considerable body of evidence,<sup>2</sup> the question turns upon the point whether in this respect the merchants were as securely intrenched behind privilege as the craftsmen. Numerous witnesses were brought forward to prove that whether on their migration from one trading company to another, as from that of a mercer to that of a draper, or from a craft to a trading company, as from the craft of the shipwrights to the mereers, an agreement had to be arrived at and an entrance fee paid. Upon the point of the claim for craftsmen to 'occupy merchandise,' there was a great body of evidence 'that no craftesman shuld occupy eny marchaundisez othir then for the necessary of their household and famylie.' The phrase is not free from ambiguity, but its meaning is illustrated by the evidence of William Pape, a witness for the defendants. Pape was a glover who had bought sheep-skins and alum, apparently beyond the amount necessary to his trade. The mercers were successful in an action against him, and he was ordered to use such sheep-skins as were good for his trade and 'those that were evill to selle And he shuld sell Allom in his house so he kepte non oppen Schoppe for Retailing,' the meaning of which apparently is that he might get rid privately of superfluous stock. The mayor and aldermen refer<sup>3</sup> to the articles of a common gild meeting in 1439, which were evidently a compromise between the traders and handieraftsmen. In cases where any extraordinary competition of purchasers from an incoming vessel manifested itself, the builders of ships and houses were entitled to priority of selection, but only so far as the objects of their industry were concerned; the merchants to the second choice; lastly, the craftsman could buy such commodities as were 'resonable for his sustentacion and propre vse to spend in his house.'

Since the Star Chamber specially concerned itself with riot,<sup>4</sup> interrogations upon the 'insurreccions and rebellion' alleged by the mayor and aldermen were administered to certain of the witnesses for the defence, apparently on the initiative of the Court.<sup>5</sup> According to the bill of complaint, a crowd of five hundred persons 'and above'

<sup>1</sup> Star Ch. Proc., Hen. 8, Bdle. xix. No. 266. See Dr. Cunningham's 'Growth of English Industry and Commerce' (4th ed. 1905), p. 627.

<sup>2</sup> E, pp. 85-93.

<sup>3</sup> E, p. 92.

<sup>4</sup> On this see 'Select Cases in the Star Chamber' (Seld. Soc. 1902), pp. liii-lv.

<sup>5</sup> H, p. 101.

had conspired to offer violence to the mayor and aldermen. Time and reflection reduced these in the interrogatories to three hundred. They were led by the persons selected as respondents to the interrogatories and 'xl more of theire opynyon.' A conference took place in the Church of St. Nicholas, prior to the annual meeting of the common gild on April 16, the mayor and recorder proposing the King's justices as arbitrators at their forthcoming assize; in the meanwhile a pacific arrangement to be devised. These terms being rejected and violence threatened, the mayor and aldermen forbore to convene the meeting of the common gild, otherwise known as the gild merchant. Such is the story as told by the interrogatories, the answers to which have not come down to us.

The Decree of the Star Chamber, dated May 2, 8 Hen. 8 (1516), has fortunately been preserved upon the Patent Rolls, an exemplification having been ordered to be delivered to the Corporation of Newcastle. It recites the points then in dispute, and refers to other complaints which have not survived, the tenour of which appears from its recitals. In effect, its decision was in favour of the trading gilds. The custom of London was not adopted, for no change from a craft to a trade gild might be made except upon renunciation of the craft gild. Persons desirous of changing from one craft gild to another were to be permitted to do so upon a sliding scale. The minimum qualification was 10*l.*, a fine of 10*s.* to be paid to the town funds. A burgess worth between 10*l.* and 40*l.* was to pay 20*s.*; if worth 100 marks and upwards (66*l.* 13*s.* 4*d.*), 26*s.* 8*d.* The fine paid, a burgess was to be free to practise 'as well . . . the same crafte &c. as his owne crafte' &c.<sup>1</sup>

The opportunity was now seized to reform the constitution of the town upon an oligarchical basis. Newcastle had not, as has been seen, resisted the tendency of the central power, which had elsewhere asserted itself, to transform ancient democratic institutions.<sup>2</sup> By the constitution now imposed by the Star Chamber, the intricate series of checks anti-popular in their composition was revived, which had been devised by the Crown in 1345.<sup>3</sup> The twelve gilds were to elect a body of twenty-four, upon which each gild had two representatives. These twenty-four nominated four burgesses from among such as had been both mayors and aldermen, and the four were then to co-opt eight

<sup>1</sup> This was a relaxation of the law, apparently inoperative, of 1363 (37 Ed. 3, c. 6), that handicraftsmen should practise only one craft.

<sup>2</sup> For the growth, especially in the

fourteenth century, of 'select bodies' or close governing councils in English towns, see Gross, i. 110, n. 1, and Mrs. J. R. Green, 'Town Life in the Fifteenth Century,' i. 196.

<sup>3</sup> Brand, ii. 161.



more who should have served as mayors, aldermen or sheriffs. The twelve so chosen were to co-opt twelve more, and this select body of twenty-four should have the election of the corporation and town officers. All that remained of direct popular election was a body of twenty-four auditors to be chosen by the twelve guilds, but as these were to be unpaid, their office, in days of expensive civic carousals, was unlikely to be sought by the humble craftsman.<sup>1</sup>

Bristol,  
Sheriff r.  
Mayor of.

Two economic phenomena of the first importance, of both of which the cases in this volume furnish illustrations, were already towards the close of the fifteenth century attracting the attention of contemporaries. They were the decay of towns and the growth of inclosures. The first had set in before the middle of the fourteenth century. It is computed by the best authorities that half of the entire population of England and Wales was swept away by the great pestilence of 1348-49.<sup>2</sup> The chronicler Henry Knighton, or Cnithon, who probably died in 1366, tells us that the plague came into the country by the port of Southampton, and made its way to Bristol 'Et moriebatur quasi tota valitudo villae.'<sup>3</sup> This is, of course, a rhetorical exaggeration; but that it was exceptionally severe at this port appears from other evidence. 'It so raged at Bristol,' writes the local chronicler Galfrid le Baker, 'that the people of Gloucester refused those of Bristol access to their town.'<sup>4</sup> 'It left very few behind it,' says the monk of Malmesbury.<sup>5</sup> Crippling though its consequences were to the Crown, remissions of taxation became inevitable, and the ferm of Bristol was reduced from 245*l.* to 100*l.*<sup>6</sup>

Rapidly as the population of the kingdom in general is said to have recovered itself, the havoc made in the towns was not soon remedied. Even in normal times, according to Rogers, the deaths in large towns exceeded the births.<sup>7</sup> No doubt fear of an infection still lingering about their reeking and narrow streets, or emanating from the great plague pits within or immediately outside their walls,

<sup>1</sup> Mrs. J. R. Green, in 'Town Life in the Fifteenth Century' (1894), ii. 186, apparently unacquainted with the constitution of 1345, regards this as a democratization of the government of the town. This view appears to be inspired by Brentano's Essay. See Gross, i. 109, n. 3.

<sup>2</sup> Now generally known as 'The Black Death.' 'Those who, having examined the records themselves, have the best right to form an opinion, are practically unanimous' (F. A. Gasquet, 'The Great Pestilence' [1893], p. 194).

<sup>3</sup> 'Chronicon,' ed. J. R. Lumby (1895), i. 61.

<sup>4</sup> 'Chronicon Galfredi le Baker,' ed. E. M. Thompson (1889), p. 98; Gasquet, p. 116.

<sup>5</sup> 'Eulogium Historiarum,' ed. F. S. Haydon (1863), iii. 213; C. Creighton, 'Hist. of Epidemics in Britain' (1891), p. 123.

<sup>6</sup> S. Seyer, 'Memoirs of Bristol' (1823), ii. 151. For a comparison of the fermes at various periods see p. 156, n. 1, *infra*.

<sup>7</sup> J. E. T. Rogers, 'Six Centuries of Work and Wages' (1884), pp. 226, 337.

deterred the emigrants who had fled into the country. And there were other causes. The local and royal taxation alike fell upon fewer, and from this cause alone we know that citizens were being driven out of the towns,<sup>1</sup> while the rural landowners were competing with each other to attract labourers to their estates. Signs of the crippled condition of the towns are to be seen in the remissions granted to them, not only with respect to their fee-farms, but from the fifteenths and tenths voted by Parliament, as well as by the sums applied to their relief. In 1433 the sum of 4000*l.* was to be set apart for these purposes.<sup>2</sup> Among those expressly mentioned as intended to participate in the benefit were the cities and boroughs which were shires incorporate, six in number, of which Bristol had been one since 1373. In 1467 this sum was tripled, but in 1472, 1474 and 1482, the close of the reign of Edward 4, it was cut down to 6000*l.* No special mention is made of Bristol in this connexion; but the charter of Richard 3, dated February 12, 1482, recites that in consequence of the afflictions fallen on Bristol, and its decay and poverty through shipwreck and other disasters, the fee-farm rent of 102*l.* 15*s.* 6*d.*, at which it stood under Henry 6, should be reduced to 42*l.* 15*s.* 6*d.*<sup>3</sup> In the spring of 1486, when Henry 7 visited Bristol, which had doubtless suffered from the plague of the sweating sickness of that year, he was greeted with some doggerel rhymes, of which a line ran 'Bristow is fallen into decay.' 'The king sent for the mayre and sheriff, and part of the best burgesses of the town, and demanded of them the cause of their poverty; and they shewed his Grace that it was by reason of the great loss of ships and goods, which they had suffered within five years.'<sup>4</sup> Henry amused them with vague promises, but two years later ordered them to pay to his Queen Elizabeth the arrears of their fee-farm,<sup>5</sup> and on his next visit, in 1490, he 'made every one of the Commons that was worth 20*l.* in goods to pay 20*s.*, or 5 per cent., for a Benevolence, because their wives went so sumptuously apparelled. Thus he obtained 500*l.*'<sup>6</sup> Another evidence that Bristol, notwithstanding its pleas of poverty, was a useful milch-cow to government, is to be seen in the assessment of its

<sup>1</sup> As at Winchester. Rot. Pat. 26 Ed. 3, pts. 1 a. m. 28*d.*; Gasquet, p. 188. Dr. Hunt (p. 78), however, is of opinion that a large influx from the country took place; but, if so, why did Bristol constantly seek remissions, and complain in 1518 of so many uninhabited houses?

<sup>2</sup> Rot. Parl. iv. 425. In 1435, 4000*l.*, ib. 487; in 1437, 4000*l.*, ib. 502; in 1439, 6000*l.*, ib. v. 4; in 1442, 4000*l.*, ib. 37;

in 1444, 9000*l.*, ib. 69; in 1449, 3000*l.*, ib. 142; in 1453, 9000*l.*, ib. 228, 236; in 1467, 12,000*l.*, ib. 623; in 1472, 6000*l.*, ib. vi. 39; in 1474, 6000*l.*, ib. 113; and in 1482 6000*l.*, ib. 197.

<sup>3</sup> J. Latimer, 'Charters,' p. 123.

<sup>4</sup> S. Seyer, 'Memoirs of Bristol,' ii. 206.

<sup>5</sup> W. Campbell, 'Materials for Henry 7' (1877), ii. 302.

<sup>6</sup> Seyer, ii. 207.

contribution to a parliamentary grant in 1503 of 185*l.* 8*s.* 1 $\frac{3}{4}$ *d.* This was second only to London, which stood at 618*l.* 3*s.* 5*d.*, and nearly twice the 98*l.* 10*s.* exacted from Gloucester.<sup>1</sup> It is possible that this excessive demand was due to the politics of the town, for most of the merchants of Bristol were of the Yorkist party.<sup>2</sup> But immoderate taxation was singled out by the Spanish ambassador, Pedro de Ayala, in 1498 as the cause of the general decline of trade in England.<sup>3</sup>

But neither pestilence, nor shipwreck, nor the burdensome expense of royal visits, of which the Commons of York complained in 1533 as a cause of the decay of their city,<sup>4</sup> nor excessive taxation, make up the whole account. Bristol did not stand alone. Historians of economics have devoted much discussion to the general causes of the decay of the corporate towns. The explanation suggested by Froude is that the towns 'flagged for a time because the country had become secure.'<sup>5</sup> But this explanation leaves out of the reckoning the fact that in the time of Henry 8 the decay was of long standing, and had maintained itself during the prolonged vicissitudes of the Wars of the Roses. It is true that the wealthy classes had taken to country dwellings and country pursuits. 'Here wyth us,' complains Lupset in Starkey's 'Dialogue,'<sup>6</sup> 'they pepul seme to study to fynd meanys how they may quyklyst let fal into ruyn and dekey al theyr cytes, castelys, and townys. Euery gentylman flyth into the cuntrey. Few that inhabyte cytes or townys,' &c. From the gentry the taste had extended to the manufacturers. The preamble of 3 Hen. 8, c. 8, after reciting 12 Ed. 2, c. 6, continues: 'Sethen the makynge of which statute and ordinaunce, many and the most partie of all the cities, bouroughes and townes corporate wythin this realme of Englonde be fallen in ruyn and decaye and not inhabited with marchaunts and men of such substance as they were at the tyme of makynge of the foreseid statute and ordinaunce.'

In the case of the manufacturing classes, this disposition to desert the towns was not entirely due to preference for rural pleasures. Many writers have pointed to the mischief caused by the commercial oligarchies of the gilds,<sup>7</sup> which drove workmen to the country for

<sup>1</sup> Seyer, ii. 210.

<sup>2</sup> Hunt, p. 96.

<sup>3</sup> Bergenroth, *State Papers* (Spanish), i. 177, no. 210; W. Cunningham, 'English Industry' (4th ed. 1905), p. 506.

<sup>4</sup> 'Eng. Hist. Rev.,' ix. 297.

<sup>5</sup> 'History of England,' i. 9.

<sup>6</sup> 'Dialogue,' p. 93, in *Early English Text Society, Extra Series*, 12.

<sup>7</sup> In 1437 the complaints against the 'unlawful and unreasonable ordinances' of the gilds led to the Act 15 Hen. 6, c. 6. The two main charges against the gilds were that they were invading the franchises, and thereby diminishing the profits of the lords, and that their oppressive conduct was to the 'common damage of the people.'



emancipation from their vexatious restrictions. With the workmen went the capitalists who, by combining manufactures with agriculture, were enabled to engross farms, exciting the jealousy of the agricultural labourers.<sup>1</sup> This particular complaint is nearly forty years later than the case of the Sheriff against the Mayor of Bristol, but the movement complained of had already begun.

To the oligarchical and exclusive policy of the gilds must be added the like tendency on the part of the corporations of the towns. Since the time of Edward 3, efforts had been made by the central government to control trades by general regulations administered by the justices of the peace in the country, and by the corporations in the towns. It was probably found that gilds provided a useful means to this end, for the incorporation of gilds in the fifteenth century went on, and the rule was that their by-laws should be subject to the approval of the municipality.<sup>2</sup> That the municipalities should themselves be made responsive to control followed as the natural policy of the central government. To effect this it was desirable to restrict the members of the governing bodies, the municipal constitutions of the fourteenth century having been granted upon a broad and popular basis. In this work Henry 7 displayed much activity; it may be because conscious that the sympathies of the populations of the towns were, as a rule, with the Yorkist party. In York, for example, by a patent of 13 Edward 4, the mayors had been elected by the citizens assembled in the Gildhall. In 1489 this popular election was suppressed, and the electorate restricted to the mayor, alderman and council of the mayor's chamber.<sup>3</sup> The commons of the town of Leicester not only enjoyed the right of electing the mayor and burgesses to Parliament, but also the justices of the peace. By a writ of the same year all these privileges were limited to a close body of forty-eight. The reasons assigned were 'the exclamacions and hedyness of the electors likely to the open breche of the peax & othre inconveniences encreasyng and causyng the falle, mysery, and declyne' of the towne.<sup>4</sup> A long struggle between the democratic and the oligarchical parties in Exeter ended in 1498 with a charter vesting the government of the city in an oligarchy.<sup>5</sup> A like fate befell Bristol. Henry 7 by a charter in 1499 reconstituted the municipality. In 1344 the town was

<sup>1</sup> See the Act 4 & 5 Phil. & Mary, c. 15, § 21.

<sup>2</sup> In the case of the shearmen of Norwich, this was by express statute, 11 Hen. 7, c. 11 (1495).

<sup>3</sup> W. Campbell, 'Materials for the His-

tory of Henry 7,' ii. 552.

<sup>4</sup> *Ib.* 456.

<sup>5</sup> R. Izacke, 'History of Exeter' (1731), p. 99; 'Select Cases in the Court of Requests' (Selden Society, 1898), p. lxxiv.

governed by the mayor and forty-eight 'of the more influential & discreet men of the aforesaid town . . . elected with the common assent.'<sup>1</sup> In the same spirit the great charter of 1373 made the assent of the commonalty a condition of the election of the common council by the mayor and sheriff. The common council was to consist of forty.<sup>2</sup> But by the charter of 1499 the aldermen, of whom there were to be six, the recorder being added to the existing number of five, were no longer to be elected by the commons of their respective wards,<sup>3</sup> but by the mayor and common council. The common council again, still numbering forty, was to be chosen by the mayor and two aldermen, the assent of the commonalty being omitted. Further, the intrusion of an alderman out of sympathy with the mayor and other aldermen was provided against by power being given to the mayor and two aldermen to remove an alderman if they should think fit.<sup>4</sup>

The natural result followed. The mayor and aldermen, themselves the creatures of oligarchy, became animated by an oligarchical spirit. Their tendency was to retain the government of the town in the hands of the wealthy families, and, in order to do so the more effectually, to multiply the expenses imposed upon the office-bearers. Men of moderate means would be ineligible for civic honours, while a natural jealousy would indispose to retrenchment in favour of new comers those who had themselves borne the burdens. Against this part of the new system William Dale, elected the junior of the two sheriffs at Michaelmas, 1518,<sup>5</sup> rose in revolt and appealed for redress to the Star Chamber. The mayor and aldermen, he complained, had of late increased the charges borne by the sheriffs, until they reached the great sum of 180*l*. He was a young merchant, yet in disregard of his protests they, having 'passed the daungeour of the said office by their great substaunce that they hadd before gottyn,'<sup>6</sup> had insisted on his taking the office. Since refusal might have involved a ruinous fine, he had no resource but to comply. The remedy proposed by him was that the two sheriffs should be relieved of many of the charges put upon them and 'be no further charged but only with the Kynges Fee Ferme, and other charges belonging to the said office of Shrevealtie only.'<sup>7</sup> The rest should be borne by the mayor or by the town.

The complainant, William Dale, then proceeds to set forth in

<sup>1</sup> The 'Little Red Book,' i. 25.

<sup>2</sup> S. Seyer, ii. 156.

<sup>3</sup> W. Hunt, p. 87.

<sup>4</sup> J. Latimer, 'Charters,' pp. 129, 130.

<sup>5</sup> See *Brystowe, Sheriff v. Mayor of, A*, p. 142.

<sup>6</sup> *Ib. G*, p. 162.

<sup>7</sup> *Ib. A*, p. 147.

detail the charges laid upon the sheriffs. Their primary duty was to raise and pay into the Exchequer the King's fee-ferm, amounting to 160*l.* The expenses attending its conveyance to the Exchequer and fees to the officers there amounted to 13*l.* 16*s.* 8*d.* The total charge was, therefore, 173*l.* 16*s.* 8*d.* Dale is particularly aggrieved at having, in addition to these sums, to find among others 43*l.* 2*s.* 6*d.* for the mayor, his house, his robes, his wine, his minstrels, his link-men; all this, notwithstanding that the income of the corporation arising from lands and tenements amounted to 140*l.* a year. For all these outgoings, to which are to be added 45*l.* for sheriffs' 'officers,' and fees and allowances to various officers of the corporation, the sheriffs have only the casual profits arising out of the rents and tolls received at St. James's Whitsuntide Fair. According to Dale, the consequences of the system were evident. The lesser capitalists upon whom the office was imposed were for the most part ruined and their workmen dismissed. Eight hundred houses, an estimate which a sympathizer is in favour of doubling,<sup>1</sup> were vacant and the town threatened with ruin. To all this the mayor answers that the ordinances complained of were legally passed, that the receipts from the town lands and tenements amount to no more than 50*l.* per annum, while the corporation adds to this sum 10*l.* as an allowance towards the sheriffs' expenses; that the charges have antiquity in their favour, that the complainant's demeanour at his election shewed contempt for constituted authority and that statements as to the effect of these charges upon the sheriffs and upon the town are untrue.

The complainant, having in his original bill stated his grievance against the mayor, supplemented it with a schedule setting out the charges borne by the sheriffs for the mayor's officers. A comparison of this list with those of earlier date, which have been handed down to us, and with the list of which Wolsey, as Chancellor, finally approved, goes far to justify Dale's contention. It should, however, be premised, with regard to Wolsey's list, that it does not follow that a charge is disallowed because it is not specified. That may have been the case, but the list purports to include only those charges which were thenceforth to be borne by the sheriffs. All other charges were to be met out of the revenues arising from lands, tenements, &c., of the chamber of the town.

The lists of the sheriffs' expenses are as follows <sup>2</sup> :—

<sup>1</sup> See *Brystowe, Sheriff v. Mayor of, A.*, p. 146, n. g.

<sup>2</sup> Ricart's *Kalendar* was published by the Camden Soc. in 1872.



LIST OF SALARIES AND ALLOWANCES TO MUNICIPAL OFFICERS BORNE BY THE SHERIFFS OF BRISTOL.

The Mayor.

Little Red Book, qu. 15th century.			Rieart's Kalendar, c. 1479.			List of 1518. Document A.			Revised List of 1518. Document F.			Ordinance of Wolsey, <sup>a</sup> 1519.		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
12 yds. of scarlet =	8	0	0	12 yds. of scarlet =	8	0	0	12 yds. of scarlet =	8	0	0			
Fur = 10 marks (6 13 4)				Fur	.	.	.	Fur	.	.	.			
Wine = 5 marks (3 6 8)				Wine	.	.	.	Wine	.	.	.			
Minstrels = 5 marks (3 6 8)				Minstrels	.	.	.	Minstrels	.	.	.			
Pension . . = 20 0 0				'Towards his				Pension .	.	.	.			
On Feast of St.				house,	.	.	.	Two torches	.	.	.			
George 2 torches (? 13 4)				Two torches	.	.	.	Commission of the						
Total . £42 0 0 <sup>1</sup>				Staple .	.	.	.	Staple .	.	.	.			
				Total .	£42	0	0 <sup>1</sup>	Total .	£43	2	6			

The Recorder.

Document O.				Document Q.				Not stated.	
Pension .	. 10	0	0	Pension .	. 10	0	0		
Livery = 10 yds. of scarlet	.	6	13 4	10 yds. of scarlet	. 6	13 4	10 yds. of scarlet . 6	13 4	
Fur	.	3	0 0	Fur	.	3	0 0	Fur . 3	0 0
Total .	£19	13 4 <sup>s</sup>		Total .	£19	13 4	Total .	£19	13 4

The Chaplain of St. George.

Pension . 8 marks (5 6 8)	Pension . . 6 6 8	Wages . . . 5 6 8	Pension )
Gown and hood = 4 yds. broad-cloth (at 6s.)	Gown of 5 yds. . 1 10 0	Gown of 5 yds. . 1 1 8	Bread )
Total . £6 10 8 <sup>4</sup>	Total . £6 16 8	Total . £6 8 4	Wine )

<sup>1</sup> In the 'Little Red Book' and Rieart, 41l. 6s. 8d.; but if the 'two torches' be valued as sheriffs, all other charges of the town being made payable by the Chamber. in 1519, the sum = 42l.  
<sup>a</sup> It must be borne in mind that Wolsey ordered a sum of 25l. to be set aside for the <sup>3</sup> Wrongly added at 20l.  
liveries of 'all manner of officers,' and that his list is of payments to be yearly made by the <sup>4</sup> This does not put a value on the cloth and makes the total 51. 6s. 8d.; but assuming it to be, as in 1519, 6s. a yard, the total is 61. 10s. 8d.

The Common (or Town) Clerk.

Pension . . . . .	4	0	0	Pension . . . . .	4	0	0	Fee . . . . .	4	0	0	2 Law Days	0	6	8
Fur . . . . .	6	8		Fur . . . . .	6	8		Fur . . . . .	6	8					
Gown, 5 yds. . . . .	(1	10	0)	Gown, 42 rays or plain cloth according . . . . .	(1	10	0)	Parchment, wax, and wine . . . . .	1	0	0				
Parchment, wax, and wine . . . . .	1	0	0	Parchment, wax, and wine . . . . .	1	0	0	2 Law Days <sup>2</sup> . . . . .	6	8					
Total . . . . .	£6	16	8	Total . . . . .	£6	16	8	Gown, 6 broad yds. . . . .	1	16	0				
								Total . . . . .	£7	9	4				

The Steward.

Livery (as to Common Clerk) . . . . .	(1	10	0)	42 Rays of plain cloth according . . . . .	1	10	0	Gown, 5 broad yds. . . . .	1	5	0	Pension . . . . .	£3	9	4
Pension . . . . .	2	13	4	Pension . . . . .	2	13	4	Fee . . . . .	3	0	0				
Fur . . . . .	6	8		Fur . . . . .	6	8		Fur . . . . .	6	8					
Paper and parchment . . . . .	6	8		Paper and parchment . . . . .	6	8		Paper and parchment . . . . .	6	8					
Wine . . . . .	2	8		Wine . . . . .	2	8		Wine . . . . .	2	8					
Total . . . . .	£4	19	4 <sup>3</sup>	Total . . . . .	£4	19	4	Total . . . . .	£5	1	0				

The Town Attorney.

Pension . . . . .	3	0	0	Pension . . . . .	3	0	0	Fee . . . . .	3	0	0	Not stated.
Fur . . . . .	6	8		Fur . . . . .	6	8		Fur . . . . .	6	8		
Total . . . . .	£3	6	8	Gown, 5 broad yds. . . . .	1	10	0	Gown, 5 broad yds. . . . .	1	5	0	
				cording . . . . .	(1	10	0)	Total . . . . .	£4	11	8	
				Fur . . . . .	6	8						
				Total . . . . .	£4	16	8					

<sup>1</sup> 'And if the livery be of Ray, then 42 Rays with plain cloth according.' Allowing 6s. a yard, as in 1619, the gown would cost 17. 10s.

<sup>2</sup> The View of Frank Pledge, otherwise called the Law Day, was within a month after Michaelmas: and about a week after that the 'afering day,' apparently for making up the jury lists. See Ricart's 'Kalender,' p. 79.

<sup>3</sup> Total entered in 'Little Red Book,' 3l. 6s. 8d., but this omits cost of livery.

The Swordbearer.				List of 1518. Document A.				Revised List of 1518. Document F.				Ordinance of Wolsey, 1519.								
Little Red Book, qu. 15th century.		Ricart's Kalender, c. 1479.		Pension .		Fur .		2 Gowns .		2 Hats .			Fee .		Fur .		2 Gowns .		2 Hats .	
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Pension .	. 3	0 0	Pension .	. 3	0 0	Pension .	. 3	0 0	Fee .	. 3	0 0	Fee .	. 3	0 0						
Livery, 40 Rays <sup>1</sup>	. (1	8 5)	Fur .	. 6	8	Fur .	. 6	8	Fur .	. 6	8	Fur .	. 6	8						
Fur .	. 6	8	Livery .	. 1	10 0	2 Gowns .	. 2	9 4	2 Gowns .	. 2	9 4	2 Gowns .	. 2	4 4						
Total .	£4	15 1	Total .	£4	16 8	2 Hats .	. 2	0 0	2 Hats .	. 2	0 0	2 Hats .	. 2	0 0						
			Total .			£7 16 0			(Real Total = £7 11 0)											
Nil.			Nil.			<i>The Chamberlain.</i>			Gown, 5 broad yds. £1 10 0			Gown, 5 broad yds. £1 1 8			Not stated.					
Nil.			32 Rays and pleyne cloth according . (16 0)			<i>Town Clerk's Clerk.</i>			Gown, 4 broad yds. 16 0			Gown, 4 broad yds. 16 0			Not stated.					
Nil.			32 Rays and pleyne cloth according . 16 0			<i>Steward's Clerk.</i>			Gown, 4 broad yds. 16 0			Gown, 4 broad yds. 16 0			—					
Nil.			36 Rays and plain cloth according = £3 12 0			<i>Mayor's Four Sergeants.</i>			Gowns, 18 yds. at 5s. yd. . £4 10 0			Gowns, 16 yds. at 3s. 4d. yd. . 3 9 4 (Real total £2 13 4)			Not stated.					
Nil.			Nil.			<i>Waterbailly.</i>			Gown of 4½ broad yds. at 5s. . = £1 2 6			Gown of 4 broad yds. at 4s. a yd. = 16 0			Not stated.					
Nil.			Nil.			<i>The Town Waits.</i>			In money . 1 9 8 3 Gowns of 4 yds. each at 4s. . = 2 8 0			In money . 1 9 8 3 Gowns of 4 yds. each at 3s. 4d. = 2 0 0			Not stated.					
Total .			£3 17 8			Total .			£3 17 8			Total .			£3 9 8					

<sup>1</sup> If 42 rays and plain cloth according are valued at 1l. 10s., 40 rays &c. will be about 1l. 8s. 5d



Nil.		<i>Clerk of the Market.</i>			
	Nil.	Gown of 4 broad yds. at 4s. = 16 0	Gown of 4 broad yds. at 3s. 8d. a yd. = (Real sum = 13 4 14 8)		
		<i>Keeping St. Nicholas' Clock.</i>			
		£1 6 8	£1 6 8		£1 6 8
		<i>Ringling Common Bell.</i>			
	Nil.	4s.	4s.		
		<i>Spicer's Obit.</i>			
		£3 13 0	£3 9 0		£3 13 0
		<i>Town Clerk and Steward's Paper and Bags, &amp;c.</i>			
	Nil.	6s. 8d., of which 5s. for 20 quires	6s. 8d., of which 5s. for 20 quires		6s. 8d. (for Town Clerk)
		<i>St. George's Feast.</i>			
	Nil.	6 Torches . 1 0 0	6 Torches . 1 0 0		
		Drinking . 5 0 0	Drinking . 3 6 8		£2 0 0
		Total . £6 0 0	Total . £4 6 8		
		<i>Drinking at Trinity Chapel.</i>			
	Nil.	£2 0 0	£1 0 0		13s. 4d.
		<i>Drinking at Christmas.</i>			
	Nil.	£13 6 8	Nil.		Nil.
		<i>Drinking at St. Nicholas' Day (6 December).</i>			
	Nil.	5s.	3s. 4d.		2s.
		<i>Wrestling on St. Lawrence's Day, &amp;c. (10 August).</i>			
	Nil.	£1 0 0	13s.		Nil.
		<i>Wrestling on St. James' Tide (25 July).</i>			
	Nil.	6s. 8d.	6s. 8d.		Nil.

Little Red Book, qu. 15th century.	Ricart's Kalender, c. 1479.	<i>Bearwards.</i> List of 1518. Document A. 10s.	Revised List of 1518. Document F. 3s. 4d.	Ordinance of Wolsey, 1519. Nil.
Nil.	Nil.			
Nil.	Nil.	<i>Minstrels.</i> 10s.	6s. 8d. (King and Queen's.)	Nil.
Nil.	Nil.	<i>Messengers of the Exchequer.</i> 13s. 4d.	4s.	Nil.
Nil.	Nil.	<i>Sermon at St. Augustine's.</i> 6s. 8d.	6s. 8d.	Nil.
Nil.	Nil.	<i>Four Orders of Friars.</i> Each 8s. = £1 12s.	£1 12s.	£1 12s.
Nil.	Nil.	<i>Midsummer Watch.</i> £20.	Nil. <sup>1</sup>	£20.
Nil.	Nil.	<i>Two Seabbarðs for Mayor.</i> £1 10s.	£1 10s.	£1 10s.
Nil.	Nil.	<i>Knights of the Shire.</i> £10 ('when time requyareth')	Nil.	£2 yearly.
Nil.	Nil.	<i>Prisoners sent to London.</i> £6.	Nil.	Nil.
Nil.	Nil.	<i>Wine at Midsummer.</i> £4 13 4	Nil.	Nil.

<sup>1</sup> It must be remembered that this expensive ceremony was discontinued in London only for. The lists in those two books are only partial, chiefly referring to the town officers and twenty years later. It does not follow, on the other hand, that because neither the 'Little Red Book' nor Ricart's 'Kalender' mentions this and other items that they were never paid the expenditure in connexion with the Exchequer.

From the above lists the sheriff's robes and torches (11*l.* 13*s.* 4*d.* in both the 'Little Red Book' and Ricart) are omitted, as not forming part of Dale's complaint. The list contained in Ricart is the later of the two. The ground of this conclusion is that Ricart shews an increased expenditure on the town officials so far as robes are concerned, and the list of 1518 demonstrates that this was a growing tendency. For instance, the swordbearer by 1518 has blossomed into a gorgeous official with two hats and two gowns according to the season. When Ricart and the 'Little Red Book,' on the one hand, are compared with the list of 1518 on the other the differences become very marked. The increased expenditure may be summarized under four heads—liveries for town officers, drinking, amusements, and miscellaneous.

Comparing only those officials expenditure upon whom is common both to Ricart and to the list of 1518, the increase within forty years, indicated by the sign +, is as follows:

	£	s.	d.
Mayor . . . . .	+1	2	6
St. George's chaplain . . . . .	+	6	0
Town clerk . . . . .	+	12	8
Steward . . . . .	+	6	8
Town attorney . . . . .	+1	10	0
Swordbearer . . . . .	+3	0	11
Total increased expenditure . . . . .	£6	18	9

Deducting three items of expenditure, the commission of the Staple, 22*s.* 6*d.*, the two law-days of the town clerk, 6*s.* 8*d.*, and an increase of 6*s.* 8*d.* in the pension of the steward, in all 1*l.* 15*s.* 10*d.*, the remainder of the above increase, amounting to 5*l.* 2*s.* 11*d.*, is due to increased expenditure upon robes, including furs. But to confine the comparison to the officials for whom liveries were found at the sheriff's expense in 1479 and in 1518 would be to understate the case of the complainant, Dale. The total cost of liveries, including furs, in 1518 was 48*l.* 7*s.* 2*d.*, whereas the total in the 'Little Red Book' was no more than 31*l.* 5*s.* 9*d.* The difference is 17*l.* 1*s.* 5*d.*, the additional expense thrown upon the sheriffs in respect of robes, &c. Wolsey's ordinance cut down to 25*l.* the expenditure upon all town liveries.

The next item is 'Spicer's obit.'<sup>1</sup> This is not mentioned at all in

<sup>1</sup> Cf. C, p. 153, n. 7.



Ricart, though, as Spicer died in the fourteenth century and Ricart did not become town clerk till 1479, it must have been a customary celebration in his day. In the 'Little Red Book' the details of expenditure, as settled by Spicer's 'Composition,' are set out as follows :

Little Red Book.		List of 1518.		Wolsey's Ordinance 1519.
Original Composition, i., p. 215.	Practice in 15th century, i., p. 202.	Practice in 1518. C. & F. (pp. 153, 160).		
£ s. d.	£ s. d.	£ s. d.	£ s. d.	
Vicar of St. Nicholas . . . . . 2 0	Vicar of St. Nicholas . . . . . 2 <sup>4</sup> 0	Vicar of St. Nicholas for light . . . . . 3 0		
18 chaplains at 4d. . . . . 6 0	20 priests at 4d. . . . . 6 8	20 priests . . . . . 6 8		
4 orders of Friars at 2s. 6d. . . . . 10 0	4 orders of Friars at 3s. 4d. . . . . 13 4	4 orders of Friars . . . . . 13 4		
Clerk of Church for ringing . . . . . 1 0	Ringling . . . . .	Ringling . . . . . 4 0		
'Suffraganeo Ecclesie' <sup>1</sup> . . . . . 6	'Precario <sup>5</sup> communi' . . . . . 4	Bellman . . . . . 4		
'Bedmanno Anniver- sarium proclamanti' <sup>2</sup> . . . . . 2				
Churchwardens . . . . . 2 0				
2 Torches . . . . . 6 8				
Bread to Poor . . . . . 10 0	Bread to Poor . . . . . 1 10 0	Bread to Poor . . . . . 1 10 4		
Mayor . . . . . 3 4	Mayor . . . . . 6 8	Mayor . . . . . 6 8		
1 Sheriff <sup>3</sup> . . . . . 2 0	Sheriff <sup>2</sup> . . . . . 3 4	2 Sheriffs . . . . . 4 <sup>7</sup> 0		
	Clerk of Gildhall and his clerk <sup>4</sup> . . . . . 4 4	Town Clerk . . . . . 3 4		
Clerk of Gildhall . . . . . 1 0	2 Bailiffs . . . . . 4 0			
2 Bailiffs . . . . . 2 0				
2 Chamberlains <sup>3</sup> . . . . . 2 0	'Satrapis domini Majoris' . . . . . 1 4			
4 Sergeants at 4d. . . . . 1 4		Sergeants . . . . . 1 4		
Total . . . . . £2 10 0	Total . . . . . £3 12 0	Total . . . . . £3 13 0	Total . . . . . £3 13 0	

It is not improbable that the increased expenditure was justified by a rise in the annual value of the estate. It will be seen that the poor received the greatest benefit from the improvement, the Friars, the town clerk, and the mayor accounting for most of the rest. It is not clear, however, why Spicer's obit should be accounted as part

<sup>1</sup> 'Suffraganeus' appears to be the modern vicar, or 'locum tenens.' 'In Concilio Rotomagensi ann. 1072 cap. 15 vetantur Sacerdotes Ecclesias suas regere per suffraganeos' (Du Cange).

<sup>2</sup> Down to 1499 there was only one sheriff; after that date two sheriffs and no bailiffs.

<sup>3</sup> After 1499 there was but one chamberlain (Barrett, p. 682).

<sup>4</sup> In the 'Little Red Book,' i. 202, this 2s. 'pro lumine' is described as 'extra testamentum,' which is a mistake, for the 'Composition' (i. 217) bequeaths 2s. for the vicar, though it says nothing about light in this connexion, and except this 2s. 'pro lumine,' no payment to him is included in the list.

<sup>5</sup> I take 'precario' here to be the equivalent to the original 'Bedmanno dictum anniversarium in villa proclamanti.' There is no such word in Du Cange ('Glossarium,' ed. 1845), but the word 'precaria' occurs as 'Invitatio ad preces fundendas,' which approximates to this sense. The 'Bedeman' may have carried a bell, as town criers commonly do at the present day. In that case, the substitution of 'Bell man,' as in the list of 1518, would easily come about.

<sup>6</sup> 'Item Communi Clerico Gihalde [sic, xl<sup>d</sup>. Item ejus Clerico xij<sup>d</sup>'] (L. R. B. i. 202).

<sup>7</sup> The two sheriffs are omitted from list F of the same year, the figures being otherwise the same and the sum in F 3l. 13s. See ib. p. 160, n. 27.

of the sheriffs' expenses, seeing that the estate had been conveyed to the chaplain of the chantry and his successors in perpetuity, subject to powers to the mayor, the vicar and churchwardens of St. Nicholas of distraint and ejectment upon default in observing the conditions of the trust. The chantry certificate of 1548 says nothing of the expenditure on the obit of Richard Spicer beyond stating the stipend of the chantry priest at 7*l.* 15*s.* 2½*d.* yearly, paid out of a net income of 11*l.* 18*s.* 6*d.*<sup>1</sup>

Passing over 6*s.* 8*d.*, the provision of paper, bags, &c., for the town clerk and steward, of which the fifteenth century knew nothing, we next come to a series of hospitalities, called in plain English 'the drinking,' imposed upon the sheriffs after the date of the two earlier lists. They number five in all: St. George's Feast on April 23, on which occasion 6*l.* was spent, 20*s.* of the sum being for torches; 'the drynkyng at the Trynyste Chapell,' perhaps on Trinity Sunday, 40*s.*; 'the drynkyng at Cristmas,' 13*l.* 6*s.* 8*d.*, apparently an average; 'the drynkyng on Seynt Nicolas Day' (December 6), 5*s.*; 'a ton of wyne at mydsomer,' 4*l.* 13*s.* 4*d.* On St. Lawrence's Day (August 10) the festivities were not entirely alcoholic, for though pears and wine cost 13*s.* 4*d.*, wrestling cost 6*s.* 8*d.* Another meeting for wrestling took place on St. James's Day (July 25) at the same outlay. Omitting these last two items, the sum exacted of the sheriffs chiefly for what now go by the euphemism of 'liquid refreshments,' with 20*s.* for torches, was 26*l.* 18*s.* 4*d.*—a very considerable amount. To this may be added 10*s.* for bear-baiting and 10*s.* for minstrels, probably on these occasions. The grand total, including the two wrestlings, then reaches 28*l.* 11*s.* 8*d.* Wolsey was no teetotaler, but he ruthlessly cut down this expenditure. The drinkings at Christmas and midsummer, the heaviest items of all, he abolished altogether, so far as the expenditure of the sheriffs was concerned. The wrestling, pears, and wine on St. Lawrence's and the wrestling on St. James's Day, the bear-baiting and minstrels, were all swept away. St. George's Day was no longer celebrated by the lavish outlay of 5*l.* for drink and 20*s.* for lights: the total allowed was 2*l.* The Trinity drinking was cut down to 13*s.* 4*d.*, and that on St. Nicholas's Day to 2*s.* From 28*l.* 11*s.* 8*d.*, the total expenses of these various festivities, all that was left was 2*l.* 15*s.* 4*d.* It is probable that Mr. Sheriff Dale was not, after 1519, a popular person with the commonalty of Bristol!

<sup>1</sup> B. and G. Arch. Soc. viii. 239.

Among the items of expenditure are, apart from Spicer's obit, two upon religious objects. The sheriffs were expected to present each of the four orders of Friars with 8s.—a total of 32s. These orders were, as has been seen, already the recipients of 13s. 4*d.* from the Spicer trust, an advance, sanctioned by Wolsey, upon the original grant of 10s. Though the Cardinal approved of the payment to them of this 32s., upon what pretext we are ignorant, he struck out the expenditure of 6s. 8*d.* upon the sermon at St. Augustine's. The disallowance of this sum is characteristic, and not fortuitous. It is an indication of Wolsey's dislike to the Augustinian Canons. Bishop Tanner gives a list of twenty-four monastic houses which were suppressed by Wolsey.<sup>1</sup> Of these no fewer than thirteen, at least, were houses of Augustinian Canons.<sup>2</sup> Seeing that, if we may include the Dominican and Franciscan nuns, there were, outside the four orders of Friars, no fewer than ten monastic orders in England,<sup>3</sup> this selection is very marked, and it sheds a light upon the excision of the expenditure upon the sermon at the Austin Canons' Church in Bristol. It is perhaps no more than a coincidence that as Wolsey indulged the Friars in these instances at the expense of their more dignified brethren, so at the dissolution of the lesser monasteries in 1536, six years after his death, the Friaries were spared.<sup>4</sup>

Wolsey's temperament again reveals itself in his retention of the expenditure of 20*l.* on the Midsummer Marching Watch, the great pageant of the civic year.<sup>5</sup> Of all great men recorded in history none surpassed Wolsey in his love for magnificence. His processions upon State occasions, or when taking his seat in the Star Chamber, escorted by his suite and by noblemen expectant of favours, have often been described. The pomp of the Midsummer Watch, so costly that in the City of London, the parent city and model of Bristol, it was discontinued twenty years after this date, naturally commended itself to his taste. The economist who drew up a revised list of expenditure (F.) had struck the item out altogether; Wolsey retained it, and with it the expense, which even the economist did not regard as superfluous, though it does not figure in the lists of the fifteenth century, of 30s. annually upon two new scabbards for the mayor's words of State.

A comparison of the totals of these lists, taking the sums as they

<sup>1</sup> T. Tanner, 'Notitia Monastica' (1744), p. xxxv.      series' (1889), ii. 546.

<sup>3</sup> *Ib.* 545.

<sup>2</sup> See the list of houses and the orders to which they belonged in Dr. F. A. Gasquet, 'Henry VIII. and the English Monas-

<sup>4</sup> *Ib.* 242.

<sup>5</sup> See C, p. 154, n. 25



really are, and not adopting the occasional mistakes of addition contained in them, gives the following results :

*Expenditure of the Sheriffs (excluding the fee-ferm).*

Little Red Book.			Rieart's Kalendar.			C. List of 1518.			F. Proposed Revised List, 1518.			Wolsey's Ordinance, 1519.		
£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
87	6	8	94	2	5	182	12	8 <sup>1</sup>	119	17	2 <sup>2</sup>	108	8	0 <sup>3</sup>

According to document E, the fee-ferm, generally stated to be 160*l.*, was with the four additional component items 159*l.* 19*s.* 9½*d.*, and with the expenses of paying it into the Exchequer the total amounted to 173*l.* 16*s.* 5½*d.*. In his complaint Dale states it at 160*l.* and the expenses at 13*l.* 16*s.* 8*d.*, a total of 173*l.* 16*s.* 8*d.*. If the total of C be adopted, the sheriffs' expenses were 173*l.* 16*s.* 5½*d.* + 182*l.* 12*s.* 8*d.* = 356*l.* 9*s.* 1½*d.*. A difficulty arises, however, in connexion with a sum of 45*l.*, which, in his complaint A, Dale says the sheriffs have to pay their 'officers,' with other sums unspecified, amounting in the whole to 60*l.*. Upon this shewing the total charges upon the sheriffs would be 416*l.* 9*s.* 1½*d.*. On turning, however, to the L. and P. iii. 457,<sup>4</sup> the total costs are summarized at 346*l.* 0*s.* 5½*d.*, which, it is said, are stated by the sheriff at 31*l.* 2*s.* 11*d.* more (i.e. at 377*l.* 3*s.* 4½*d.*). This makes it probable that their 'officers' include some of the minor officials mentioned in E. There being so many elements of uncertainty in these details, a complete comparison of the whole outgoings scarcely appears possible.

The origin of the document in the Letters and Papers does not appear. It may be the report of an official to the Star Chamber, or a statement put in on behalf of the mayor, perhaps by the recorder. After stating the total costs as above, it continues: 'Average receipts, 286*l.* 17*s.* 8*d.*, stated by the sheriff to be 14*l.* 7*s.* less (272*l.* 10*s.* 8*d.*). Average expense, 50*l.* 2*s.* 9*d.* "which is not for any honest person called to any worshipful room in any town to complain of." The 240*l.*, it goes on to say, mentioned by the said sheriff is charge for meat and drink and raiment for his own household. 'It is thought their apparel for them and their wives is too sumptuous, and proceedeth of their high and prodigal minds,' for it is 'more than good

<sup>1</sup> The complainant makes the total 185*l.*

<sup>2</sup> This is the real total of F, but the two totals given, viz. 106*l.* 3*s.* 10*d.* + 14*l.* 8*s.* 2*d.* = 120*l.* 12*s.*

<sup>3</sup> That is, subtracting the fee-ferm of 160*l.*, which is not included in the preceding totals. Wolsey's ordinance gives the total, including the fee-ferm, as 268*l.* 8*s.*

<sup>4</sup> See p. 161, n. 41 *infra*.

reason and discretion, and would agree rather to be for a mayor and his wife than a sheriff,' and can be diminished at pleasure. The fees and casualties received by the recorder, town clerk, steward, and town attorney cannot be diminished as the sheriff alleges. All his considerations are insufficient. His predecessors have always been content to bear the said charge. The document also asserts that beyond the charges there set forth, substantially the same as those printed in E and F,<sup>1</sup> 'the said sheriffs were not bounden nor need not to pay but at their pleasures.'

This defence of things as they were did not find favour with the Star Chamber. To the Great White Book<sup>2</sup> in the archives of Bristol we are indebted for knowledge of the decree of that Court. 'On the 4th of October, 11 Henry 8 (1519), John Williams being mayor,<sup>3</sup> the mayor and aldermen assembled in Guildhall by unanimous consent and commandment of the most Reverend Father in God my Lord Cardinal Wolsey, Archbishop of York, Chancellor of England, in moderation of the charges before this time yearly sustained by the Sheriffs of Bristol, and ordained and established by authority of the King's charters to them granted and confirmed the ordinances following.' Although these have been printed in Barrett, yet, as being the final judgement of the Court, it has been thought proper to reproduce them here by way of completion of the case.<sup>4</sup> Attention has been directed in the notes to variations introduced by the Decree into the items of expenditure of which complaint was made. It is enough to state here that the Decree estimates the revenues of the sheriff's offices at 215*l.* 1*s.* 8*d.* and their annual expenses, as revised, at 268*l.* 8*s.*, leaving a balance of 53*l.* 6*s.* 4*d.* to be defrayed from their private means, 'besides the costs of bringing up the prisoners,' that is to London. The decision, therefore, though it altered the distribution of the revenues of the town, and especially curtailed the 'drinkings,' afforded no redress to the complainant, whose term of office had expired before it was given. On the whole, victory was with the oligarchs.

Radclyffe,  
Bristol,  
Parishioners  
of, and  
others, r.  
Mayor, &c.,  
of Bristol.

The origin and early history of Fairs have been traced by the late learned antiquary, Mr. C. J. Elton, and by Mr. B. T. C. Costelloe in

<sup>1</sup> Pp. 156-61.

<sup>2</sup> P. 53.

<sup>3</sup> This is from Barrett, p. 123. Unless Barrett has wrongly transcribed '11' for '12,' this extract from the Great White

Book authoritatively proves both of the two calendars published in the Bristol and Gloucestershire Archaeological Society, xix. 130, to be wrong. See A, p. 142, n. 3.

<sup>4</sup> H, p. 163.

the First Report of the Royal Commission on Market Rights and Tolls, published among the Parliamentary Papers of 1888. The year 1544, to which the case of the Parishioners and others of Radclyffe, now St. Mary Redcliff, Bristol, against the Mayor and Commonalty of Bristol belongs, was not the golden age of fairs. With the growth of local industries and local middlemen their importance had waned. The grants of fairs and markets, collected in the Appendix to the Parliamentary Paper<sup>1</sup> mentioned, shew that, whereas in the thirteenth century they had numbered 3300, they had fallen in the fourteenth century to 1560, while during the fifteenth century, as late as to 1482, they numbered no more than 131. It is unfortunate that the commissioners' researches extended no further. Of these 131 grants, ten were for markets only, fifty-six for fairs only, the remainder for fairs and markets. It is probable that in the sixteenth century the grants dwindled yet more. As the towns grew, commerce became a part of daily life, not the occasion of intermittent Saturnalia. The rights to hold fairs were so generally in private hands that they brought little profit to the central government, whereas the prosperity of a town could always furnish the Treasury with a pretext for increasing the fee-farm. The towns, on their side, were well aware of their value, and, as both the petitions from Bristol prove, pleaded the fee-farm as a consideration to be weighed in favour of concession to their demands.

One consequence of these wholesale grants was a conflict of commercial interests parallel to that clash of jurisdictions which was so prolific of litigation during the Middle Ages. An ingenious rule of law was formulated by Bracton,<sup>2</sup> by which to test the complaint that a market involved an invasion of the privilege of a neighbouring franchise. An injury can be done, he says, to a franchise already granted by the grant of another franchise. For instance, the franchise of holding a market is granted to a person with the condition attached that it is not to be to the injury of a neighbouring market. Hence the first point for inquiry must be, what sort of market can be said to be a neighbouring market, and what sort not neighbouring, but remote. A market, he concludes, can be a nuisance if set up within six miles and a half and the third part of a half of an existing market. Bracton disclaims the paternity of this rule, and expounds it '*secundum dicta seniorum*.' According to these, a reasonable day's journey is twenty miles. The time occupied may be

<sup>1</sup> Parliamentary Papers, 1888, liii. 108-31.

<sup>2</sup> f. 235.



divided into three parts. Of these, the first part is to be allotted to travelling to the market, the second to the transaction of business, the third to travelling home again. All this, he says, must be done by daylight, because robbers may waylay or attack wayfarers by night. 'Mercatores stellati,' chapmen who have stalls, need longer hours of business, possibly because they sold larger quantities or a greater variety of wares.

But though the effective range of a market was thus restricted in theory, the Crown frequently protected its grants by a proviso that no other should be set up within longer distances, while the effective range of a fair appears to have been, even theoretically, indefinite. In 1334 the inhabitants of Northampton addressed a petition to the Crown.<sup>1</sup> Under Henry 3 their fee-farm had been 120*l.* per annum, and their cloth trade was so flourishing that there were 300 cloth-workers in the town. Their town was now in decay. It had become ruinous to be elected to the office of bailiff and so to be responsible for the fee-farm. They pray for relief and for the grant of a fair from Pentecost to the Gule of August (August 1). The fair already enjoyed by them was from All Saints' (November 1) to St. Andrew's Day (November 30). But it was of no advantage, because it conflicted with the Fair at Westminster ('par reson de la Feire de Westmenstre'). There were, on the other hand, country fairs, the importance of which was recognized in London. Such in 1189 were Boston and Winchester, during the continuance of which 'the Husting Court was not held, as otherwise it would have conflicted with the business engagements of the citizens at these marts.'<sup>2</sup> Northampton is by road some sixty-eight miles from Westminster, Winchester about sixty-five miles, and Boston a hundred and eighteen miles from the City of London.

Although the towns were jealous of fairs, and those engaged in some of the forms of industry or trade must have felt the liveliness of the competition which fairs brought home to their gates, it is doubted by Dr. Cunningham whether, on the whole, the prosperity of the towns did not suffer with their decline. The influx of strangers with money to spend must have enriched many classes of the inhabitants. Above all, the ports, protected on one side from the competition of neighbouring markets, must have welcomed any attraction to the buyer from beyond sea. As at the present day

<sup>1</sup> Rot. Parl. ii. 85, 54.

<sup>2</sup> W. Cunningham, 'Growth of English Industry and Commerce' (4th ed.), 1905,

pp. 181-2-3, 452; H. T. Riley, 'Memorials of London' (1868), p. 637.

in Protectionist countries, they must have been inclined by their situation to favour freedom of trade. It was, perhaps, for these reasons that in 1529 the Mayor and Commonalty of Bristol interested themselves in procuring a charter for a fair at Redcliff, at that time within the boundaries of the town, the profits of which were to go not to Bristol, but to the inhabitants of the three adjacent parishes of St. Mary Redcliff, Holy Cross in Temple Fee, and St. Thomas the Martyr, afterwards called St. Thomas the Apostle. It is evident from the Interrogatories that the intervention of the Mayor in the interest of the petitioners was not unopposed, and that there were those who doubted of its probable effect upon the trade of Bristol. A consequence of this was that the concession of the Mayor, precedent to the charter, was never sealed.

Within fourteen years these forebodings were realised. According to the contention of the Mayor and Commonalty of Bristol in 1544, as may be gathered from the Interrogatories, the formal Answer to the Bill of Complaint being lost, the trade of the town had begun to concentrate itself in Redcliff Candlemas Fair. The fortnightly markets between All Saints' Day (November 1) and the beginning of Lent, the resort to the haven between Michaelmas and Mid-Lent of trading and fishing vessels from Ireland, Wales, Cornwall, and Devonshire were alike checked. They 'will nott come to Bristowe vntill Candlemas Fayer.' The consequences were the decay of the trade and port of Bristol, a rise in the price of victuals, and the loss of the customs and tolls taken at the gates of the city. This last grievance explains much that has gone before. The traders, it appears, did not wait for the fair from mere wrongheadedness, as might have been inferred, to their own loss as well as that of the citizens. At the fair 'all thinges is custome free whiche is a grett lose vnto the Shreveze etc.' Those who read the case of the Sheriff *v.* the Mayor of Bristol will commiserate those functionaries, already severely burdened.

It is strange to find questions as to ecclesiastical endowments mixed up with this commercial dispute. The complaint to the Star Chamber was that Henry White, Mayor of Bristol in 1543, had during his term of office proclaimed the fair 'frustrate and voyed,' and prevented customers from dealing there. The lost Answer presumably alleged that while Bristol was suffering loss of trade owing to the fair, the favoured parishes of Redcliff and Temple Fee, being already amply endowed with ecclesiastical funds, could urge no plea of poverty to justify continuance of the fair. An interrogatory, in

effect, alleges that they misappropriated to their own use more than 57*l.* yearly intended to be devoted to public worship. Lastly, the fair, the Interrogatories suggest, was demoralizing the working classes and multiplying 'Typplyn howesis.' Artisans preferred casual gains at fair time to the regular wages of systematic industry.

It would appear that the complaints against the fair began as early as 1537. Cromwell was then at the height of his power, and his man of affairs, William Popley, was a native of Bristol. It was natural that his aggrieved fellow-citizens should seek to enlist Popley's interest. On the other hand, the parishioners of Redcliff manifested, according to Popley's deposition, no great enthusiasm for the fair. 'One Peers Cheritie, one of the head or cheiff of the parishe of Radcliff, said in dede, iff itt be losse to the towne itt is little profit to the churche.'<sup>1</sup> It must be remembered that Redcliff and Temple Fee were incorporated with Bristol, and that they must have borne their part in compensating for the loss of tolls. The parishioners accordingly shewed themselves willing to surrender the fair if the Mayor and Commonalty would repay them the costs of procuring the Charter. 'A soft answer turneth away wrath,' and, for a while, proceedings to suppress the fair were abandoned.

The answers to the Interrogatories, embodying the concurrent testimony of the haberdashers, merchants, mercers, drapers, and cappers of Bristol, are followed by a document D evidently put in by the parishioners of Redcliff, who, whatever may have been their disposition in 1537, were in 1544 anxious to retain their privilege. It is not easy to strike the balance of this involved account, the significance of the terms 'Summa vacacionis' and 'Summa Reparacionis' being doubtful to the writer. On the whole, it appears to prove that, the income arising from the Church lands of Redcliff amounting to 101*l.* 6*s.* 8*d.*, the expenses of divine service for which this was provided exceeded it by some ten per cent.

There is another point of view from which this document D has an interest for the historian. In the winter of 1545 an Act was passed intituled 'An Acte for dissolucion of Colledges' (37 Hen. 8, c. 4). It was, in fact, aimed at the chantries. The dissolution of the monasteries had whetted the appetite of rapacity, while the progress of the reformed doctrine was subversive of the religious ideas which had led to the endowments of chantries and obits. Powerful laymen, who were, or who claimed to be, representatives of the founders, in imitation of the King, resumed possession of the estates

<sup>1</sup> C, p. 265.



appropriated to chantries and religious fraternities. In many cases the chantry ecclesiastics were ready to meet them half-way, and by granting beneficial leases for fines, or by alienations outright, to enrich themselves at the expense of their successors. To the adherents of the old religion these spoliations were naturally odious. To the mass of the nation, already scandalized at the wholesale enrichment of courtiers by the estates of the monasteries, they stood for a further diversion of public funds to private uses,<sup>1</sup> and this at a time when the exigencies of government and the apprehension of foreign invasion rendered taxation increasingly onerous. Parliament, therefore, summarily set aside the fraudulent transactions of the preceding decade, and declared all chantries, &c., and specially all which purported to have been so alienated, vested in the King. The institutions so vested are enumerated as 'Colleges, Freechappelles, Chauntries, Hospitalles, Fraternities, Brotherheddes, Guyldes, and other the saide promocions,' these last four words presumably applying to 'Stipendarie Prestes and divers other' set out in the preamble. It will be observed that nothing is said about obits and of the endowments appropriated to them, though undoubtedly, where a chantry was founded for the celebration of a particular obit, it would be comprised in the word 'chantries.' But there appear to have been what may be called obits unattached, which, though celebrated in a particular church, were not necessarily celebrated in a particular part of that church, reserved for that purpose and known as a chantry. It is a probable inference from what subsequently took place that the existence of these was concealed by the clergy, or that they were held not to pass to the King under the Act. Another statute followed just two years later. It was intituled 'An Acte wherby certaine Chauntries, Colleges, Free Chapelles, and the Possessions of the same be given to the Kinges Majeste' (1 Ed. 6, c. 14). This new Act, perhaps in order to halve the numbers of its opponents among the spoliators, assigned five instead of ten years to its retrospective effect. On the other hand, its meshes were more closely drawn. Three clauses (§§ 4, 5, and 6) were directed to the case of obits. Lands given for the maintenance of perpetual obits were vested in the King; where part of the profits of lands had been given for a perpetual obit, the King should have an annual rent-charge to the amount,<sup>2</sup> and all

<sup>1</sup> See J. Strype, 'Ecclesiastical Memorials' (Oxford, 1822), ii. i. 100.

<sup>2</sup> A known instance which illustrates the present case of the conversion of an endowment for a chantry into a rent-charge payable to the Crown, survives in a rent-charge of 13*l.* 6*s.* 8*d.* annually paid by Brasenose College in respect of lands in Lincolnshire. These lands were charged for the maintenance of a chantry in

sums of money payable by corporations for priests, obits, &c., were vested in the King as rent-charges.

In order to insure the execution of this measure, commissions were issued in February, 1548, to inquire into and draw up a return of the property passing under the Act. The chantry certificates for Gloucestershire, including Bristol, which are the returns of these commissioners, have been preserved and are published in the eighth volume of the 'Transactions of the Bristol and Gloucestershire Archæological Society.' If this list of chantries and obits be compared with the list of obits appropriated to the Church of St. Mary Redcliff, and other churches in Bristol, as set out in document D of the case before us, it will be seen that between 1544 and 1548 six obits, with their endowments, had vanished. They are Grywodde's obit, with an endowment of 4*s.*; Pytte's obits, with two endowments, each of 13*s.* 4*d.*, of which one was paid for a celebration at the Church of St. Thomas; Blecker's obit, endowed with 18*s.* 8*d.*; (Simon) Burton's obit, endowed with 6*s.* 8*d.*; Blancke's obit, endowed with 3*s.* 9*d.*; and an obit called a 'generall mynd,' endowed with 7*s.* 9*d.* The sum of these endowments is 3*l.* 7*s.* 6*d.* Though they had escaped the statute of 1545, the fate of obits was evidently imminent. The obits were doubtless dropped, the clergy kept silence, and the King's commissioners were balked of part of the prey.

The issue of the conflict between the united parishioners of the three parishes and the city of Bristol is summarized for us in a document among the Letters and Papers of Henry 8, iv. 5978, as follows: 'The Mayor and Corporation of Bristol. Charter permitting a yearly fair to be held in the parish of St. Mary Redclyff, from the 2nd Feb. to 9th Feb. Witnesses: Thomas cardinal of York, William archbishop of Canterbury &c. Del. le More 20 Sept. 21 Hen. 8. Signed Bill. Patents p. 2 m. 9.—Vacated on surrender by John Willy, attorney of the said corporation, 10 June 36 Hen. 8, by order of the King's Council.'

Brydges v.  
Cawsye.

The case of *Brydges v. Cawsye*<sup>1</sup> and Others illustrates the peril of the informer's calling, while incidentally it exhibits the impotence of the legislature effectively to prescribe the processes of manufacture.

memory of one of the founders of the College, William Smyth, Bishop of Lincoln. But though the Act of 1547 was put into execution in 1548, the earliest document in possession of the College shewing a receipt by the Crown is dated January 31, 5 Ed. 6 (1551). It is not impossible,

since there was no chantry chapel to point to the existence of the endowment, that in the meanwhile the charge had escaped detection. See 'Brasenose Quatercentenary Monographs' (Oxford, 1909), ii. 156-64.

<sup>1</sup> Pp. 219-221.

An Act of 1423<sup>1</sup> recites that leather was 'so deceitfully tanned that the boots, shoes and other necessities thereof made, be in a small season wasted and destroyed because of the evil tanning of the said leather, to the great deceit and loss of the commonalty of the realm.' These evil practices were imputed to the tanning of their own leather by the cordwainers. This was prohibited. The cordwainers were in future to buy from the tanners, a prescription which it was evidently anticipated would render them prompt to mark defects. Their acuteness was stimulated by a penalty of 6s. 8d. for every hide proved defective, the fine to be, as was customary, divided equally between the King and the informer. The offence was triable before justices of the peace as well as by the King's justices. In order to evade detection, tanners began to act as curriers and to curry and black leather, an innovation which suggests itself, since the cordwainers bought of the tanners, as the possible origin of the black instead of the buff leathern boot. This 'currying and blakking of lether insufficiently' was to the public injury, to check which an Act was passed in 1485<sup>2</sup> forbidding tanners to curry or black leather for sale under the same penalty of 6s. 8d. a hide. In order also to prevent collusion between tanners and curriers, any curriers who should 'take upon hym to cory eny hyde of lether but suche as is afore sufficiently tanned' was liable to the same penalty. But the feat of 'driving a coach and four through an Act of Parliament' was not a discovery of the nineteenth century. No cordwainers might tan, no tanners might curry, but there was no law to prevent cordwainers from currying. This hole was stopped by an Act of 1503-4,<sup>3</sup> by which it was provided 'that no man of Crafte of Cordewaners or Shomakers nor no other to his use in Cite or Burgh Toun within this Realme shall in tyme to come use ne occupy the mystere or crafte of Coriours, while he usith the Crafte of Cordewayners uppon peyn of forfeitur of vi<sup>s</sup> viii<sup>d</sup> for every hyde so coryed and wrought,' the penalties to be divided as before. Within the city the usual right of control, search and seizure of leather defectively curried had been granted to the Curriers' Company in 1415. But outside the city boundaries and in franchises within the city the company had no jurisdiction, and the statute of 1503-4 was expressly limited to cities and borough towns. The consequence was, as we learn from an Act of 1511-12,<sup>4</sup> that a

<sup>1</sup> 2 Hen. 6, c. 7.

<sup>2</sup> 1 Hen. 7, c. 5, Tanners.

<sup>3</sup> 19 Hen. 7, c. 19. 'De Coriariis Frumitoribus et Alotariis.'

<sup>4</sup> 3 Hen. 8, c. 10. 'An Acte agaynst buying of Leather out of the open markett being not well tanned or unsealed.'



number of alien cordwainers dwelling within the franchises of St. Katharine's and St. Martin's, 'and also in the Suburbes of the same Citie, as in the Towne of Westminster, the borough of Southwarke and oder places use dayly to bye Ledder as in Innes Corners and other secrete places or not in the opeyn Markett where the assaye and seale for suche causes is kept that no disceytfull ware unsufficiently wrought or tanned shulde be utterd.' To check this practice the powers of the wardens of the Curriers' Company were extended to the franchises and the suburbs. They were authorized to search 'wythin the Felisshippes of Tanners as the Felisshippes of Straungers alienes occupying the seid Crafte of Cordewayners,' with the penalty of 6s. 8d. as before.

Notwithstanding this network of legal ordinances the cry of the consumer was in 1532 shriller than it had been a hundred and nine years earlier. An Act of the session 1532-3<sup>1</sup> recites the continuance of the evil practices complained of 'by reason wherof the kynges poore Subjectis be greatly hyndred and decayde and fewe of them can go or ride drie either in shoes or bootes, nor have any good or strong horse harneis of Lether ne any enduryng sadells, maales or boudgettes ne any other thynges made of tanned Lether.' The mischief is assigned to the sales by tanners of leather 'in ther owne dwellyng houses or in ther secrete places and houses out of the common fayres or markettes by reason wherof the same Lether is unserched.' While the existing statutes were confirmed, an attempt was made to revolutionize the method of enforcing them. Instead of making it incumbent upon the officials to go in search of the leather, the leather within the city and three miles round was to be brought to Leaden Hall and there searched and marked. Outside the three-mile radius leather was only to be sold in open fairs or markets. The penalties were as before, save that outside the three-mile radius the King's share was to go to the mayors or lords of the leets, or in default to informers. The statute having been passed in 1533, six years had elapsed before the complainant began his career as an informer and a subsequent twelve months during which he was busy in procuring fresh evidence. The date of this case cannot therefore be earlier than 1540. If the George Brigges of St. Michael, Cornhill, whose will was proved in 1546<sup>2</sup> may be identified with this complainant the date must have been between 1540 and 1546, and in any case cannot be later than Henry 8's death on January 28, 1547.

<sup>1</sup> 24 Hen. 8, c. 1. 'An Acte concerning trewe tannyng and coryeng of Lether.'

<sup>2</sup> J. C. C. Smith, 'Wills proved in the Prerogative Court of Canterbury.'

The case of Cade *versus* Clarke and Others<sup>1</sup> revives the vexed question of the significance of the terms 'villein regardant' and 'villein in gross.' The plaintiffs allege against the defendants a curious conspiracy. Thomas Cade and two others, father and son, named Robert Thrale the elder and the younger respectively, charge six persons with having, in collusion with one Richard Elys, clerk of the Courts of the Abbot of St. Albans, procured an entry of a presentment to be made in the court roll of the manor of Sandridge, or Saundridge, that they, the six, were bondmen. The object of this, it is alleged, was that the six persons ostensibly aggrieved might bring actions for damages at Common Law against the presenting jurors. As a fact, they had entered six such actions in the Court of Common Pleas. The conspiracy, it is suggested, had occurred to them because a presentment had actually been made 'before this tyme' of one, John Clarke the elder, as a bondman, and he had 'vntruely recouered xv<sup>li</sup> damages and liij s. iiij d. costes' against Robert Thrale the elder 'before the Kynges Justices.' That verdict, it was alleged, was gained 'thorowe such bering and vnlauffull means' in law, Maintenance and Embracery, as the plaintiffs now invoked the aid of the Star Chamber to protect them against.

Cade and  
others v.  
Clarke and  
others.

The language of the defence to this complaint demands particular attention. 'Accordyng to ther concyens and knowleg the homage then and thare made presentment by the which presentment yt shall apere that thay presentyd not that the sayd defendantes or any of theym were bond of blode but the sayd defendantes seyen that Richard Elyes by the comaundment of the sayd Thomas Cade now complaynaunt intred into the Court Rolles that the same defendantes were bound regardaunte to the sayd maner without the knowlege assent or presentment of the sayd homage.'

The popular view of the difference between the 'villein regardant' and the 'villein in gross' is expressed by the historian Freeman in the words 'The ceorl is the villain regardant of the lawyers; the theow is the villain in gross.'<sup>2</sup> On the other hand, Hallam had already asserted that between the two he could find no manner of difference.<sup>3</sup> 'The distinction,' he added, 'was merely technical, and affected only the mode of pleading. The term "in gross" is appropriated in our legal language to property held absolutely and without reference to any other. Thus it is applied to rights of advowson or of common, when possessed simply, and not as an incident to any particular lands. And there can be no doubt that it was used in the same sense for the possession of a villein.'

<sup>1</sup> P. 184.    <sup>2</sup> 'Norman Conquest,' v. 477.    <sup>3</sup> 'Middle Ages' (12th ed. 1868), iii. 173.

Between these conflicting views later writers have been divided. In his 'Villainage in England' (1892) Professor Vinogradoff has adopted Hallam's opinion, and has fortified it by a review of the Year Books of Edward 2 and Edward 3. He comes to the conclusion that 'if the lord has a deed or a recorded confession to prove a man's bondage, he may implead him as his villain in gross; if the lord has to rely upon prescription, he has to point out the manor to which the party and his ancestors have been regardant, have belonged, time out of mind.' He acknowledges, however, that 'section 182[of Littleton] is not quite consistent with such an exposition.'<sup>1</sup>

As § 182 is a short one, it may as well be given in Coke's translation: 'Also, if a man and his ancestors, whose heire he is, have been seised of a villeine and of his ancestors as of villeines in grosse time out of memoire of man, these are villeines in grosse.' 'This,' comments Coke, 'needeth no explanation.' We may, however, perhaps be permitted to add the explanation, should the possibility of proving villeinage in gross by prescription be questioned, that the institution of *capitagium* or *chevage* seems to have been designed for some such purpose. 'The object was not so much to get money, as to retain some hold over the villain after he had succeeded in escaping from the lord's immediate sway.'<sup>2</sup>

Littleton's statement, indeed, appears simple enough: a man may prescribe for a villein in gross. But it is surely difficult to reconcile with Professor Vinogradoff's conclusion that the essence of villeinage in gross is that it must be pleaded otherwise than by prescription. And if there were, as the professor adds, no 'doubt that his view was the general doctrine,' how is it that Coke, who must be taken to have been familiar with the general doctrine, passes over this contradiction of it as needing no comment?<sup>3</sup>

Nor, if the entire passage from Hallam, quoted by Professor Vinogradoff, be considered, is it consistent with the proposition that the distinction between a 'villein regardant' and a 'villein in gross' was merely technical. Hallam cites analogies pointing to a distinction between absolute and relative ownership, and his concluding application of this distinction to the case of villeins, as above quoted,

<sup>1</sup> 'Villainage in England,' j. 50 and n. 1. Cp. Coke, 1 Inst. 120 b.

<sup>2</sup> Ib. p. 157. Cp. A. Savine, 'Bondmen under the Tudors,' 'Trans. R. Hist. Soc.' N.S. xvii. 266-7.

<sup>3</sup> In his argument in *Sommersett's case* (ed. 1772, p. 37), Hargrave says, 'if precedents had been wanting, the authority

of Littleton, according to whom the title to villenage of each kind, unless it has been confessed, must be by prescription, would not have left the least room for supposing the pleading of a prescription less necessary on the claim of villeins in gross than of those regardant.'



involves an admission that 'the possession of a villein' might be absolute or relative, that is, relative to land.

Blackstone founds upon section 181 of Littleton, which runs in Coke's translation as follows: 'And villein in grosse is where a man is seised of a manor whereunto a villein is regardant, and granteth the same villein by his deed to another, then he is villein in gross, and not regardant.' Littleton's treatise on 'Tenures' was probably written not later than 1475. Since it speedily acquired reputation as authoritative, Sir Thomas Smith, writing in 1565, is likely enough to have based himself upon it, and does, in his chapter 'Of Bondage and Bondmen,' cite it to criticize it upon another point. While, therefore, Smith's evidence must be discounted, what he does say is as follows: 'The Romans had two kindes of bondmen, the one which were called *serui*, and they were either which were bought for money, taken in warre, left by succession, or purchased by other kinde and lawefull acquisition, or else borne of their bonde women and called *vernae*: all those kinde of bondmen be called in our lawe villeins in grosse, as ye would say immediatly bonde to the person and his heires. An other they had as appeareth in Justinians time which they called *adscriptitij glebae*, or *agricensiti*. These were not bond to the person, but to the manor or place, and did follow him who had the manors, and in our lawe are called villaines regardants, for because they be as members, or belonging to the manor or place. Neither of the one sort nor of the other have we any number in England. And of the first I never knewe any in the realme in my time; of the seconde so fewe there be that it is not almost worth the speaking. But our lawe doth acknowledge them in both those sortes.'<sup>1</sup>

The Roman learning of this passage may be dismissed save so far as it illustrates the fact that in the sixteenth century, as in Bracton's day, resort was made to it for the interpretation of conditions of which a Roman origin cannot be predicated. The important points are that, as Professor Vinogradoff puts it, 'the notion of two classes corresponding to the Roman *servus* and the Roman *adscriptus glebae* had taken root firmly about the middle of the sixteenth century,'<sup>2</sup> and that Smith never knew of any 'villeins in gross.'

If there existed nothing more than a technical difference of form between these distinctions, how comes it that the defendants in the case before the Star Chamber carefully disclaim any presentment that

<sup>1</sup> 'De Republica Anglorum' (ed. 1906), lib. iii. chap. 8, p. 130.

<sup>2</sup> 'Villainage in England,' p. 49, n. 4.

they were 'bonde of blode' while they allege the insertion of a fictitious presentment by the plaintiff Cade that they were 'bounde regardaunte to the sayd manor'? The Star Chamber was not a court of Common Law in which points of pleading were of more consequence than the merits of the case. The disclaimer and admission point to a material difference involving consequences to be deprecated, one which might determine the amount of damages awarded or of penalties adjudged.

I have elsewhere<sup>1</sup> pointed out that the identification by Bracton and other Romanizing lawyers, of all who were not freeholders or freemen as *servi* was untrue to the social constitution of their day. My conclusions may be summarized in the propositions that, while bondmen of blood were originally tenants at will of demesne land, or, as Britton puts it, 'pur vileyns de saunc et de tenementz,'<sup>2</sup> who could be tallaged by the lord 'de alto et basso pro voluntate,'<sup>3</sup> bondmen regardant to a manor, at any rate, in the sixteenth century, were generally customary tenants or copyholders. As such they were protected even against the lord by custom administered in the customary courts of which, as in this case, they were themselves suitors, and the technical question whether they were bond of blood becoming of comparative insignificance, save in cases where they had acquired wealth from other sources, their hereditary status was frequently forgotten. To allege of these that they were 'bond of blood' was to expose them, if allowed to pass without protest, to the confiscation of their property<sup>4</sup> by the lord, and, therefore, the pleader is careful to state that, whatever might be the circumstances under which the presentment was made, the presentment was 'not that the sayd defendantes or any of theym were bond of blode.'<sup>5</sup>

The replication introduces an alternative phrase which carries us no further towards an elucidation of the problem. The inquiry by the homage is there expressed to be 'yf ther war ony bondeman appendaunte or engroce to the seid maner of Saunderygge belongyng.' As it is common ground that 'in gross' is opposed to 'regardant' and

<sup>1</sup> 'Political Science Quarterly,' viii. 665. 'Law Quarterly Review' (October 1893); 'Transactions of Royal Historical Society,' N.S. vi. pp. 194 &c. (1892), N.S. vii. 132 (1893). See also W. S. Holdsworth, 'History of English Law' (1909), iii. 378 &c.

<sup>2</sup> Britton, III. ii. 12.

<sup>3</sup> 'Year Book,' 18 Ed. 1, p. 221.

<sup>4</sup> I omit consideration of how far the well-known reservation of 'wainage' may have been applicable. See as to this

'Trans. R. Hist. S.' vi. 199, n. 1. An example illustrating the text is to be found in 'Select Cases in the Court of Requests' (Selden Society, 1898), p. 58 tried in 1551, where a lord seizes the plaintiff's goods and justifies on the ground that the plaintiff is of 'vyllynage and bondage of the bloudde.' In this case he is also a villein regardant, and the lord accordingly pleads prescription.

<sup>5</sup> See Holdsworth, p. 395.



its equivalent terms, it follows that the words 'to the seid maner of Saunderygge belongyng' belongs to 'appendaunte' or, at least, as attached to 'in gross,' has a topographical rather than a legal significance.

If the inferences from these pleadings be justified, it remains to suggest some explanation of the reason why the term 'villein regardant' is not to be found as a form of pleading till, roughly speaking, the year 1350.<sup>1</sup> The date is significant. It is immediately after the series of epidemics which so devastated England that landowners had serious difficulty in getting their land cultivated.<sup>2</sup> In the evolution of all civilisations there is a stage at which social importance is marked by the number of idle retainers attached to a man's household. Such were the 'pure villeins,' 'natives' or 'serfs,' whose legal status is described in the 'Myrrour' and in Britton. When the catastrophe of the middle of the fourteenth century took place, when the scarcity of tillers of the soil had become so great that, as the statutes and the case of 1355 quoted by Professor Vinogradoff shew,<sup>3</sup> landowners were enticing each other's villeins into their service as free labourers, this class must, for economic reasons, have practically disappeared. They became necessarily employed as servile cultivators of the land, or, if they fled from their lords, as free labourers. They survived as little more than a tradition. The plea of 'villein regardant' was then introduced, not because 'villeins regardants' but not 'villeins in gross' must be proved by prescription, for Littleton and, by implication, Coke held the contrary, but because the demonstration of the freehold of the lord to which the villein was 'annexed' was a useful confirmatory evidence at a time when competing employers were contending that for a villein to be 'allant et walkant a large' was proof of his being a free man.<sup>4</sup> 'A deed or a recorded confession,' on the other hand, were of themselves evidence sufficient.

When, therefore, the homage of the manor of Sandridge were charged by the steward to inquire who were 'villeins regardants' to the manor and who 'villeins in gross,' they were receiving a charge formulated after the middle of the fourteenth century but reminiscent of an earlier period. There were probably at Sandridge in 1526, as the defence seems to imply, no 'bondmen of blood.' The 'villeins regardants' presented by the homage, if such presentment took place, were free men as to status, though bond as to tenure—that is, holding

<sup>1</sup> See 'Villainage in England,' p. 52, n. 2.

<sup>2</sup> For an instance of this, not before published, see the 'Quater-centenary mono-

graphs of Brasenose College,' ix. p. 57, n. 1.

<sup>3</sup> 'Villainage in England,' p. 53.

<sup>4</sup> *Ib.* p. 413.



villein tenements by villein services; for, as long before as the thirteenth century, Britton had written 'car dreit ne suffre mie qe villenage pur nule lounge seysine de servage puse aserver nul fraunc homme.'<sup>1</sup> All the greater, in that case, would the injury have been of being presented and enrolled as 'bondmen of blood,' a condition at that day also involving a social stigma.<sup>2</sup>

I conclude then that, while it has been established by Professor Vinogradoff that the terms 'villein regardant' and 'villein in gross' come up in connexion with the modes of proof and pleading during the fourteenth century,<sup>3</sup> it is not correct to say that they have 'nothing to do with a legal distinction of status,' that the pleadings in this case shew that 'villein in gross' in the sixteenth century meant the same thing as 'bond of blood'; that the term imported certain liabilities which did not attach to a 'villein regardant'<sup>4</sup>; that the two were kept distinguished on that account; and that the origin is to be sought in the existence of two distinct classes described by the early jurists prior to the middle of the fourteenth century, which justify Freeman and Blackstone as well as Sir Thomas Smith, Coke and Littleton. As I formerly expressed it,<sup>5</sup> in indicating my dissent from Professor Vinogradoff's denial of any substantial significance to the terms, 'Forms of pleading are adapted to facts.'<sup>6</sup>

Sely v.  
Middelmore.

Sely v. Middelmore suggests other points with regard to the rights of bondmen. It would appear from an inquisition held in 1512<sup>7</sup> that a certain Thomas Wodde, being 'the King's native pertaining to the manor of Yardeley,' in Worcestershire, was seised of certain lands of the manor called in the bill of complaint 'bonde landes.' Thomas Wood had, it may be inferred, died, and his widow had been left, it would seem, in possession by the Crown. According to the plaintiff, who was bailiff of the manor, at that time in the hands of the Crown, one John Middelmore entered into possession of the manor and made 'heires at his pleasure' during a year and a half. At what date this

<sup>1</sup> Liv. I. chap. 32 (ed. F. M. Nichols, 1865), i. 196.

<sup>2</sup> See 'Select Cases in the Star Chamber' (1902), p. 127, and A. Savine, 'Bondmen under the Tudors,' in 'Trans. R. Hist. Soc.' (1903), xvii. 267.

<sup>3</sup> 'Villainage in England,' p. 55.

<sup>4</sup> See 'The Last Days of Bondage in England,' 'Law Quarterly Review,' October, 1893.

<sup>5</sup> 'Trans. R. Hist. Soc.' 1892, N.S. vi. 191, n.

<sup>6</sup> This bill, it is to be noted, appears to have been filed in the Court of Chancery in the first instance (pp. 191, 196), but by that Court transferred to the Star Chamber (pp. 198, 199, 201, 203). The address to the Chancellor is in accordance with the provision of the statute 'Pro Camera Stellata' (3 Hen. 7, c. 1). See 'Select Cases in the Star Chamber' (Selden Society, 1902) p. xv.

<sup>7</sup> See Sely v. Middelmore, p. 119, n. 10 infra.

trespass took place is left uncertain. There is, however, in the document reciting the Inquisition of 1512, which itself bears date June 7, 14 Hen. 8 (1522), a grant by the Crown to one Henry Page of 'two messuages, a cottage and land in Yardeley, Worcestershire, of which Thomas Wodde, the King's native, was seised, and which are in the King's hands.'<sup>1</sup> It may be taken, therefore, that at that date the Crown had been made aware of its rights, that Middelmore's trespass had been a few years earlier, perhaps upon the death of Wood's widow, and that this case belongs to a year not long prior to 1522.

It will have been noted that Thomas Wodde is described as a 'native.'<sup>2</sup> The word implies a serf without rights, otherwise known as 'bond of blood.' Nevertheless he is in possession of lands and of title-deeds thereto, 'whiche be in nombre lxxj peces whereof liij peces be sealed dedes and xxix vnsealed.' It may be taken as self-evident that these numerous muniments of title were not all concerned with the two messuages, the cottage and land in Yardeley. But that some of them were so is highly probable. The 'native,' doubtless, had been admitted to copyhold lands within the manor and had acquired lands from others. I have elsewhere shown that 'the tenure of customary lands was secure against the lord, even where the tenant was a "villein by blood," so long as the services were performed.'<sup>3</sup> The grant of the Crown in 1522 was apparently not due to a forfeiture incurred by the tenant, but might have been made even if the copyholder had been free since it arose on default of heirs, in which case a holding escheated to the lord. The defendant, it would seem, is accused of setting himself up as a mesne lord and admitting supposititious heirs. Nor is the question raised of the right of the Crown to the lands of its 'native' held of other lords which, beyond question, it was entitled to appropriate.<sup>4</sup> Round these points of controversy the case unfortunately circles without actually coming into contact with them.

The history of the quarrels between the inhabitants of Bewdley and those of Gloucester and Worcester as to the right of user of the Severn is set out at length in the volume of Star Chamber cases published by the Selden Society in 1902. The Act passed in 1504, 'de Fluviio Sabrini' (19 Hen. 7, c. 18), allowed any person or corporation to enter an appearance in the Star Chamber before Ascension

Inhabitants  
of Bewdley  
v. Mayor of  
Gloucester  
and Bailiff of  
Worcester.<sup>5</sup>

<sup>1</sup> L. and P. Hen. 8, iii. 2356 (7).

<sup>2</sup> See p. 119, n. 10, and 'Trans. R. Hist. Soc.' 1892, p. 195 foll.

<sup>3</sup> 'Trans. R. Hist. Soc.' 1892, p. 215.

<sup>4</sup> See 'The Last Days of Bondage in England' by the writer, 'Law Quarterly Review,' October 1893.

<sup>5</sup> Appendix I, pp. 285-287.

Day, 1505, and prove their right to take toll. In the former volume, the petitions of the towns of Gloucester and Worcester were addressed to this point, while that of Thomas Whyte, merchant of Gloucester, was in the nature of an opposition to its legalization.<sup>1</sup> The petition of the inhabitants of Bewdley, here printed,<sup>2</sup> is to be found among the Star Chamber Proceedings of Henry 8. It is, however, probable that, like so many others, it has been wrongly sorted. It appears to belong to the interval between 1504, when the Act 'de Fluvio Sabrini' was passed, and Ascension Day, 1505, when the towns concerned were to justify their demand of toll. There was, it is true, an Act passed in 1532 (23 Hen. 8, c. 12) of which the title was 'An Acte for taking Exaccions upon the paths of Severn.' That title precisely defines the scope of the statute. The complaint recited in the preamble to the statute was not, as here, against a compulsion to put in at the quays of the towns through which traffic passed, but against extortions by riparian owners for the use of the towing-paths, in particular the demand of a toll in kind of wines carried on the river. That had been a subject of complaint in 1446,<sup>3</sup> but nothing is said of it in this petition, though other articles of merchandise are mentioned. Nor is there here any suggestion that exactions were demanded for use of the towing-paths. On the contrary, the implication is that, the towing-paths being free, the inhabitants of Gloucester and Worcester had resorted to the device of charging for the enforced use of quays. The address to Warham, as Chancellor, shews also that it cannot be later than 1515. I therefore date this document as belonging to 19 Hen. 7 (1504), and take it to be one of the group printed in 1902 to which reference has been made. Parliament met on January 16, 1504, and Ascension Day, 1505, was on May 1, an interval of about a year in which claimants to tolls were at liberty to make good their case.

<sup>1</sup> See 'Select Cases in the Star Chamber' (1892), pp. 209-26.

Append. I. p. 285.  
Rot. Parl. v. 569, b.



# SELECT CASES

## BEFORE THE

### KING'S COUNCIL IN THE STAR CHAMBER

#### COMMONLY CALLED

## THE COURT OF STAR CHAMBER

---

BRADENSTOKE, PRIOR OF *v.* ANNE.<sup>1</sup>

To the kyng our soueraign lorde & to the lordes  
(of) his moste honourable Councell.

(c. 1509)      HUMBLY Sheweth vnto youre Hihnesse your dayly bedisman <sup>2</sup>  
Thomas Prior <sup>3</sup> of the monastery of Bradenestoke in the countie of  
Wilshire <sup>4</sup> of your grace foundation.<sup>5</sup> Where that the same Prioure  
beyng seased and possessed off and in hys maner of Northaston in  
your countie of Oxfford with thappurtenaunces and of the parsonage  
of the same maner and Towne of Northaston <sup>6</sup> and of and in ccc acres  
of lande,<sup>7</sup> xx acres of pasture, xx acres of medowe in the same Towne  
in the right of his seyde monastery, and so beyng seased oone John  
Anne ayle <sup>8</sup> to John Anne nowe of the same Towne by force of a demise  
made by the seyde Prioure to the same John thayle, The seyde John  
inclosed diche and conuerted to pasture ccc acres of errabill lande in

<sup>1</sup> Star Chamber Proceedings, Henry 8, vol. vi. f. 268. Introd. p. lxciii.

<sup>2</sup> Bedisman, beadsman for bead's man, from 'bead,' prayer; hence beadsman, man of prayer. J. A. H. Murray, 'Eng. Dict.' s.v. bead, beadsman.

<sup>3</sup> This must have been the predecessor of Thomas Walsh, 6-18 Henry 8. His names are unknown. Dugdale, 'Monast.' vi. 337.

<sup>4</sup> A Priory of Black Canons (Augustinians), founded in 1142 by Walter de Evreux, otherwise de Saresbiria, dissolved in 1539, having revenue exceeding 200*l.* a year. Ibid.

<sup>5</sup> In right of the Duchy of Lancaster. Ibid.

<sup>6</sup> The Manor and Rectory of North Aston, the only possessions of the Priory in Oxfordshire, are entered on the Computus of the Augmentation Office in 32 Henry 8. (1540), but no value assigned to them 'quia concessum Ricardo Ingram.' North Aston is in North Oxfordshire, between Oxford and Banbury, and is so called to distinguish it from Steeple Aston about two miles to the south.

<sup>7</sup> 'Land' or 'terra' without any qualification in medieval documents means arable land.

<sup>8</sup> Ayle, aiel, grandfather: 'A writ of ayle or de avo.' Blackstone, Comm. iii. 186. Murray, 'Eng. Dict.' s.v. Aiel.

oone Felde called South Felde in the seyde Towne conteynyng by estymacion ccc acres whereof the seyde Prioure hadd and hath within the same inclosure lxxx acres & aboue and the same conuerted into pasture, and also the same John anne thayle hath inclosed & diked another grounde and felde in Northaston afforesayde called North Felde of errabill l(an)d<sup>9</sup> conteynyng by estymacion cccc acres and the same conuerted into pasture within the which grounde the same Priour hath lxij acres of errabill lande or nygh thera(b)ought<sup>9</sup> and all the same grounde & errabill lande so diked & inclosed and turned into pasture the same John Anne thayle occupyed & kepte all his lyeff, and after his decease oone Wylliam Anne his son occupyed & kepte the same in leke maner withoute paying any rente therfore duryng the space of twoo yeres for the which the same Prioure sued the seyde William before the late kyng Harry the vij<sup>th</sup> and his counsell beffore whych kynges counsell the same Priour and William appered and there by mediation of the same kynges graces counsell and also by iniunction geuyn to theym by the sayde counsell the seyde Priour and William compromitted theym & bounde theym eyther to other in the somme of a hundred poundesto abyde the awarde of Mr. Christofer Beynbrigge<sup>10</sup> doctor of lawe and oon (Jo)hn<sup>9</sup> Egge(co)mbe<sup>11</sup> of Oxford lerned in the lawe, which arbitrours awarded to the seyde Priour his seyde manor parsonage landes and pastures and medowes lefeally<sup>12</sup> to holde & enjoy and also Ten poundes for amendes for the iniuries & wronges done by the seyde William to the seyde Priour which awarde the same William wolde not perfforme ne kepe wherefore the same Prioure sued the seyde William in your countie of Oxford which pleded nott his dede and thereupon a issue joyned and

<sup>9</sup> Parchment mutilated.

<sup>10</sup> Christopher Beynbrigge, Bainebrige, or Bainbridge, LL.D., Provost of Queen's College, Oxford, 1495; Dean of York, 1503-07; Master of the Rolls, 1504; Dean of Windsor, 1505; Bishop of Durham, 1507; translated to York, 1508; Cardinal, 1511; died of poison at Rome, 1514. 'Diet. Nat. Biog.' He is mentioned as frequently sitting in the Court of Requests, probably here spoken of as 'the Council.' See Select Cases in the Court of Requests (Selden Soc., 1898. Introd. pp. xviii, eiii, evi, eix).

<sup>11</sup> Partly indecipherable. John Eggecombe, of St. Aldate's, Oxford, owner (perhaps inheritor from John Edgecumbe, gentleman [flor. 1434]. H. Hurst, 'Oxford Topography,' p. 37.) of Trill-mill Hall in Grandpont Street, which he converted into a brewhouse (A. Wood, 'City of Oxford' [ed

A. Clark, 1889], i. 201, 300.). He was Mayor of Oxford in 1484, 1485, 1491, 1497; an Alderman in 1503 (ib. iii. 25, 26) in which year he was nominated a commissioner to raise the feudal aids demanded by the king both in the town and county of Oxford (Rot. Parl. vi. 538, 542). His will was proved in 1515 (J. C. C. Smith, 'Index of Canterbury Wills,' i. 184) and he was buried in St. Aldate's (A. Wood, 'City of Oxford,' iii. 199, n. 1). He left a sum of money for prayers for his soul at the annual service on St. Scholastica's Day (February 10) on which the town made submission to the University. See A. Wood, 'History of the University' (1792), i. 473; also H. Hurst, 'Oxford Topography,' p. 50. He was granted a 'special admission' to Lincoln's Inn, on February 16, 1484-85. 'Line. Inn Admission Register,' i. 23, and 'Black Books,' i. 81.

<sup>12</sup> Lefully, i.e. lawfully.

all the fryendes of the same William were impanelled thereuppon<sup>13</sup> and a nisi prius was sued out to Oxfford<sup>14</sup> Wherfore the same Priour eftsones<sup>15</sup> compleyned to the same counsell and surmised the Jury so impanelled wolde passe<sup>16</sup> ageynst the seyde Priour vpon the which compleynt the seyde<sup>17</sup> Kynges grace caused oone John kyngsmell Sargeant att the lawe<sup>18</sup> to be att Oxfford to see the demeanour off the seyde Jure \*<sup>19</sup> \*<sup>19</sup>e seyde mater and beffore that seyde day of syttyng att Oxfford for the seyde mater the same William deceased after whose decease John Anne son of the seyde William havng \*<sup>19</sup> astate of & in the sayde maner of the seyde Prioure parsonage landes and pastures hath occupyed the same the space of Sevyn yerys passed & wilnott suffre the seyde Prioure ne his tenaunt to occupy & kepe the same but so kepeth and holdeth all the seyde grounde inclosed and diked wherby<sup>20</sup> foure howses and<sup>20</sup> twoo plowes of the seyde Priour in the seyde Towne be decayed and fallen downe to the disherison of the seyde Priour & his monastere and also in the seyde Towne eyght howses fyve plowes be decayed fallen & pulled downe to the minisshyng of goddes Church there & seruices, decreace of the kynges subgettes and furthermore by the reason of the same inclosure dychyng and decay the seyde Prioure hath susteyned greate losses damages costes and charges as in a sedule herunto annexed it<sup>21</sup> appereth playnely<sup>22</sup> and for the refformyng of the premisses the seyde Priour hath made long suytt ageynst the same John Anne & the seide William his father which be of such kyn alyaunce strength & frynded in your seyde countie of Oxfford that the seyde Priour cannott atteyn to his right which suyt is lyke to be the vndoing of the seyde Priour withoute the helpe of your highnesse. In consideracion wherof it may plesse your Highness to graunt your gracious lettres of Prevy Seale<sup>17</sup> or wrytt of sub pena<sup>17</sup> to the same John Anne commaundyng hym by the same

<sup>13</sup> The 'ontrue demeanynge of Shrevys in makynge of panelles' was one of the mischiefs struck at by the Act 'Pro Camera Stellata,' 3 Henry 7, c. 1 (1487).

<sup>14</sup> By the Statute of Westminster the Second (13 Edward 1, Stat. 1) a regular system was established for disposing of civil causes in the counties in which they arose. 'A day and place for the Trial in the County should be named in the presence of the parties. The sheriff was directed to summon the jurors to Westminster only "nisi prius" the Justices of Assize came into the County.' W. S. Holdsworth, 'Hist. of English Law' (1903), i. 117.

<sup>15</sup> Again.

<sup>16</sup> Give a verdict.

<sup>17</sup> Interlined.

<sup>18</sup> As John Kyngsmell was called Serjeant in 1494 and appointed a Justice of the Common Pleas on July 2, 1503, this fixes the limits of the date of the inquiry mentioned. E. Foss, 'Lives of the Judges' (1857), v. 158.

<sup>19</sup> Parchment torn.

<sup>20</sup> Apparently intended to be struck through.

<sup>21</sup> Parchment much defaced.

<sup>22</sup> No entry of these inclosures and destructions of houses is to be found in the returns of the Commissioners of Inclosures of 1517, but the returns for this part of the county appear to be incomplete. See 'Domesday of Inclosures,' i. 320.



to appear beffore your Highnesse where so euer ye be<sup>23</sup> vppon the sight heroff vnder a certeyn payne by your Highnesse to be lymyted to answeere to the premisses. And your seyde bedisman shall dayly pray to godd for the preseruacion of your highnesse long to endure.

(*Indorsed*) Billes & other thinges committed in Trinite term

\* 24

\* 24

\* 24

(*In modern hand*) Bradenstoke, Prior of r. Anne.

r.

Anne.

CHRONOLOGICAL VIEW OF LEGAL PROCEEDINGS AND PRINCIPAL EVENTS  
IN INHABITANTS OF THINGDEN v. JOHN MULSHO, JOHN AND THOMAS  
MULSHO v. INHABITANTS OF THINGDEN AND JOHN MULSHO v. THE  
ABBOT OF CROXSTON.

- 1494. 1 July. Decree in S.C. against J. M. in suit of Inhabitants of Thingden v. J. M.
- 1495. 27 November. Above decree dissolved.
- 1499. 10 September. Surrender by John Selby and readmittance to J. S. and Margery S., his wife.
- 1510. Decree in S. C. in Inhabitants of Thingden v. J. M.
- 1526-27. Complaint to King of the Inhabitants of Thingden as to J. Mulsho's unreasonable fines.
- 1527. 15 February. Issue of a P. S. and injunction against J. M.
- „ 17 October. Court held at Thingden. H. Selby prays admittance to mese and Grymes Close.
- „ 28 October. J. M. forcibly cuts wood of H. S., value 4*l*.
- „ November. Bill in Court of Requests of H. S. v. J. M. re fine and wood.
- 1528. January. Bill in S. C. of H. S. v. J. M. re fines, inclosures, and riot.
- „ January. Answer of J. M.
- „ 27 January. Commission to Sir R. Brudenell and Sir J. Mordaunt, &c.
- „ 13 August. Inquiry by R. B. and J. Mordaunt. Interim agreement.

<sup>23</sup> 'Ubicunque fuerit.' This was a form in use by the Council and the Court of Requests in the time of Henry 7, but not by the Star Chamber. See on this

form 'Select Cases in the Star Chamber (Seldon Soc., 1902, pp. xvi-xviii).

<sup>24</sup> Parchment illegible.

1528. August ? Decision of M. Bettes's case by commissioners and notes of H. S.'s case.
- „ Michaelmas Term. Bill of complaint by H. S. against the commissioners Brudenell and Mordaunt.
1529. January. Answer of the commissioners Brudenell and Mordaunt.
- „ 16 January. The Sheriff destroys J. M.'s inclosures.
- „ 25 January. The inhabitants of Thingden complete the destruction.
- „ 28 February. Alleged riotous assembly at Thingden.
- „ Trin. Term. (?) J. M. v. H. S. Action for trespass at Northampton. H. S. cast in costs and damages 5 marks.
- „ 14 August. J. M. impounds four beasts at Thingden.
- „ 15 „ Pound breach by W. Daye and 5 others.
- „ 15 „ H. Selby and others break open inclosure at Debdale.
- „ 17 August. Fourteen persons rescue J. M.'s distress.
- „ October–November (M'vas Term). J. M. files a bill in the S. C. against Inhabitants of Thingden.
- „ M'vas Term. H. S. files a bill in Chancery against J. M.
- „ „ „ Commission to Edward Mountague to hear and determine above.
- „ 3 December. Decree by More C. in S. C. re J. M. v. Inhabitants of Thingden.
1530. 27 April. Court at Thingden. Mountague demands fine.
- „ ? May. Mountague returns certificate to More, C.
- „ ? May. More commits H. S. to Fleet prison for a fortnight.
- „ Easter Term. (?) J. M. v. Abbot of Croxston in Star Chamber.
1531. Lent. Writ of Monstraverunt tried at Northampton. H. S. v. J. M. Judgement for J. M.
1533. Bill in Chancery. H. Selby v. J. M. coram Audley, C.
- 1534.(?) H. S. and wife indicted at Northampton and fined 6s. 8d.
- „ (?) H. S. bound over to keep the peace towards J. M. Letter from H. S. to Cromwell.
- „ 25 February. Alleged riotous maintenance of H. S. at Northampton.
- „ 6 March. Death of Abbot of Croxston.
- „ Bill in the Court of Requests. H. S. v. J. M.
- „ Letter from Cromwell to Edward Mountague to do justice to H. S.

1535. Letter from H. Selby to Cromwell.  
 „ Death of John Mulsho  
 1537. Michaelmas Term. Bill in Chancery coram Audley, C.  
 H. S. v. Thomas Mulsho.  
 1538. 1 January. Meeting of inhabitants of Thingden to support  
 H. S.  
 „ ? Easter Term. Thomas Mulsho v. H. S. and others.  
 Bill in Star Chamber.

INHABS. OF THINGDEN v. MULSHO.<sup>1</sup>

A certificat  
 to my lord  
 chaunceler<sup>2</sup>  
 takyn afore  
 Robert  
 Brudenell  
 one of the  
 kynges  
 justices.<sup>3</sup>

A. Thies byn the hurtes & wronges don by John 1509  
 Mulsho<sup>4</sup> Esquier to Richard lythell John Busseton  
 William Dey & William Busseton & to all other  
 Freholders & inhabitants of Thyngden.<sup>5</sup>

First the said freholders & inhabitauntes seyn that the said John  
 Mulsho hath inclosed \*6 \*6 whyche felde of Thyngden,  
 wherin the same inhabitantes & freholders have euer tyme out of

<sup>1</sup> Star Ch. Proc. Hen. 8, Bundle 26, No. 359. Introd. p. lix.

<sup>2</sup> William Warham, Archbishop of Canterbury, Lord Chancellor, January 21, 1504, to December 22, 1515 ('Dict. Nat. Biog.')

<sup>3</sup> Robert Brudenell, born 1461; educated at Cambridge; his name first occurs in the Year Books in Hilary Term, 1490; serjeant-at-law, Michaelmas Term, 1505; Justice of the King's Bench, April 28, 1507; Chief Justice of the Common Pleas, April 13, 1521; died 1531 ('Dict. Nat. Biog.').

<sup>4</sup> John Mulsho, Mulso, &c., whose name was probably taken from the manor of Moulsoe, Mulshoe, or Moleshoe, &c., in North-East Buckinghamshire, was, according to Bridges, descended from a family settled at Goldington, in that county. The manor held by him in Thingden appears to have been acquired by John Mulso and Alice, his wife, in 5 Henry 4 (1403-4). He was succeeded by his son, another John Mulso, who died in 19 Edward 4 (1478), and was father of John Mulso, or Mulsho, the litigant here concerned, who tells us (p. 38) that from that year he was continuously resident at Thingden (J. Bridges, 'Hist. of Northamptonshire' [1791], i. 258). John Mulsho, the litigant, married Eleanor, daughter of . . . of Stukeley, Huntingdonshire (G. Lipscomb, 'Hist. of Buckinghamshire' [1847], iv. 143). He was first

placed on the Commission of the Peace for Northants as John Mulshoo, on July 11, 1515 (L. and P. Hen. 8, ii. 694). He was pricked sheriff for the county, November 6, 1520 (ib. iii. 1042). In 1524 he was one of the nine collectors for the county of the loan for the war with France (ib. iv. 214), and afterwards a commissioner to collect the subsidy voted in 1523 (ib. p. 239). His relations with the inhabitants of Thingden are disclosed in these papers. He died 27 Hen. 8 (1535-36), and was succeeded in this estate by his son and heir Robert Mulsho. 'By the Inquisition then taken he was found to have been seised of one moiety of this manor, and a fourth part of the other moiety held of the Lord Fitz-Walter by fealty and the payment of one pair of gilt spurs.' (Esch. anno 27 Hen. 8, n. 112; Bridges, ii. 258.) As the Inquisition following on his death must have been held before April 21, 1536, when the 27th year of Henry 8 ended, and the Inquisitions post mortem of Henry 7 shew that a year or more generally elapsed after the death before the Inquisition was taken, John Mulsho probably died not long after April 22, 1535.

<sup>5</sup> Now known generally as Finedon, though Thingden appears not to have passed entirely out of use, 13½ miles N.E. of Northampton.

<sup>6</sup> Paper torn.



mynde vsed & of right ought to haue commens with ther bestes & catell in the same vj closes to now of late that by the same inclosure thei be interupt and \*<sup>7</sup> to have the commens as it apperith by the viewe and ouerseyng takyn by maister Brudenell one of the kynges Justeses.

The  
nowmber of  
acres as  
vewd &  
written by  
master  
Brudenell  
the kyngs  
Justes.

Item the seid freholders and Inhabitants compleyn that they by reyson of inclosyng of \*<sup>6</sup> com(mens) \*<sup>6</sup> \*<sup>6</sup> seid vi closes be not only kept from ther seid commens in the said vi closes wherof parcell ben parte of medow but also they can not come to ther other commens lying farther of within the bounds of the seid felds which is a greit hurt to the seid compleynautes.

Also the seid freholders in the name and by the instance and request of all freholders and inhabitants aforseid seyn that the seid John Mulsho hath inclosid within one of the seid vi [closes]<sup>6</sup> a commen balk<sup>8</sup> which balk the same inhabitantes have euermore vsed to haue ther procession way ons in the yer<sup>9</sup> and neuer afore inclosed.<sup>10</sup>

Also they seyn that in one of the seid vj closes which is a greit close lying in myddyll of the fyldes the same John Mulsho hath norisshed gret nowmber of Conyes<sup>11</sup> wherby all ther feldes ben gretly hurt and distroied in cornes growyng ther to the impouerysshynge of  
\*<sup>6</sup> ther.

Also the seid compleynautes seyn that the seid John Mulsho hath inclosed a parcell of ground at North holmes<sup>12</sup> & dyched and set the same with oseyards<sup>13</sup> wherin they shuld by right have ther commens And now it is so set diked and inclosed with sets<sup>14</sup> and

<sup>7</sup> Blotted; illegible.

<sup>8</sup> A ridge between two furrows, or a strip of ground left unploughed as a boundary line between two ploughed portions. J. A. H. Murray, 'Eng. Dict.' s.v. As a frontispiece to the fourth edition of Dr. W. Cunningham's 'Growth of English Industry and Commerce' (1905) is a photograph of 'Open fields and balks at Clothall, Herts.'

<sup>9</sup> 'That every man might keep his owne possessions

Our fathers us'd in reverent processions

With zealous prayers, and with praiseful cheere

To walke their parish-limits once a yeare.' &c.

(G. Wither, 'Emblems' [1635], p. 161.) This took place on Ascension Day. See J. Brand, 'Popular Antiquities' [ed. 1849], i. 197. Cf. 'S. Pepys' Diary,' April 30, 1668. At noon Sir J. Minnes and I to he Dolphiu

Tavern, there to meet our neighbours, all of the Parish, this being Procession-day, to dine.'

<sup>10</sup> That is, the common fields.

<sup>11</sup> Cony, a rabbit; formerly the proper and ordinary name, but now superseded in general use by 'rabbit,' which was originally a name for the young only. Murray, 'Eng. Dict.' s.v.

<sup>12</sup> The word 'holm' or 'holme,' which frequently occurs as part of compound names in this case, means 'a piece of flat low-lying ground by a river or stream, submerged or surrounded in time of flood.' Ibid. s.v. 'holm.' The river Ise runs on the West side of Thingden.

<sup>13</sup> Osiers; a form not noticed in Murray 'Eng. Dict.'

<sup>14</sup> Set; anything not sown, but put in a state of some growth into the ground. S. Johnson, 'Eng. Dict.' ed. R. G. Latham (1870).

oseyards as is byfore seid that the catell of the seid inhabitantes be in jeopardie like to be perissshed if they \* <sup>6</sup> thider to vse ther commens.

Also the seid inhabitantes seyn that the seid John Mulsho hath made and diche ouer and aboue the seid vj closis in iij other sundry places within the seid felds of Thyngden & set the same with dowbull settes and other yong Wode to thentent as it apperith to bring in moch more in to pasture if he thus may be sufferid <sup>15</sup> And to the only profite of hymself & vndoing of many other pore men.

Also the seid John Mulsho hath contrarie to right & good consciens brokyn & don contrary to a decre made by the counsell of our soueryan lord kyng henry the vij<sup>th</sup> late kyng of England as it apperith by a copy made by for the seid counsell <sup>16</sup> wherby he shuld haue cast down the seid inclosures by a day vppon the peyn of c. li. and that notwithstandyng nor feyryng he hath made more inclosure trustyng to be born by his gret riches & fauour power & alyans of gret men in his contreith & other places.

For the which wronges & greit costes for the same long contynued the seid pore freholders and inhabitantes pray to haue reformation for the love of god & in way of charitee.

(No indorsement.)

B.

1 Hen. 8.

Termino Pasche. May 13.

1509 'Injunctum est Mulsoo et adversariis suis quod sint coram Domino Rege et consilio in x proxime Trinitatis et quod interim pacem serviet quilibet eorum sub pena x<sup>li</sup>.' <sup>1</sup>

C.<sup>1</sup>

1510 Memorandum quod septimo die Nouembris anno regni Regis Henrici octaui secundo <sup>2</sup> in interiori Camera Camere stellate <sup>3</sup> in causa inter Johannem Mulsoo partem querelatam, et Willelmum Dey ac

<sup>15</sup> Shewing that, as the editor has contended elsewhere, simple inclosure frequently occurred as a preliminary to subsequent conversion to pasture. See 'Trans. R. Hist. Soc.' N.S. xiv. 267-286.

<sup>16</sup> This refers to the decree of July 1, 9 Henry 7 (1494). See pp. 19, 33, *infra* and *Intr.* p. lx.

<sup>1</sup> This entry in the book of the proceedings of the Court of Star Chamber, now lost, occurs in the Lansdowne MS. 639, f. 1, in the British Museum. The MS. purports to be 'A collection of forms and precedents of the Star Chamber by Izaacke Cotton, clerk of the Star Chamber for 30 years,'

dated 20 September 1622, and dedicated to Sir Humfry Maye, knt., chancellor of the duchy of Lancaster and 'Clarke of His Majestie's high Court of Star Chamber, and to Thomas Maye Esquire, his brother and deputie.'

<sup>1</sup> S. C. P. Hen. 8, Bundle xxx. No. 138.

<sup>2</sup> 1510.

<sup>3</sup> The inner chamber or dining-room is here used for draughting the decree. See C. L. Schofield, 'A Study of the Court of Star Chamber' (Chicago, 1900), p. 70; and 'Accounts of Star Chamber Dinners' in 'American Historical Review,' v. i. 83 (Oct. 1899).

Johannem Boughton nomine inhabitancium de Thingdon actores contra dictum Johannem Mulsoo de et pro certis clausuris in Campis de Thingdon predicta per eundem Johannem Mulsoo de nouo erectis, per Reuerendissimum in Christo patrem dominum Willelmum Cantuariensem Archiepiscopum Cancellarium <sup>4</sup> Comitem Surr' Thesaurarium Anglie <sup>5</sup> et dominum Winton <sup>6</sup> hac die in dicta interiori Camera Camere stellate conuenientes talis directio capta est qui <sup>7</sup> sequitur videlicet quod dictus Johannes Mulsoo et heredes sui imperpetuum gaudebunt omnibus et singulis clausuris et Campis clausis per dictum Johannem Mulsoo nuper clausis et erectis ac quod nec dicti inhabitantes nec tenentes ville de Thingdon predictae nec heredes sui dehinc vendicabunt sibi aliquam Communem pasturam in dictis Campis et clausuris per dictum Johannem de nouo erectis Sed ab aliqua communi pastura infra dictas clausuras posthac habenda sint exclusi imperpetuum. Dictus tamen Johannes Mulsoo pacietur dictos tenentes et inhabitantes de Thingden gaudere omnibus viis et semilis <sup>8</sup> eundi et redeundi vehendi et Reuehendi infra Manerium predictum absque contradiccione interrupcione siue impedimento dicti Johannis Mulsoo quas antehac consueuerunt habere. Ac est quod dictus Johannes Mulsoo posthac non eriget nec erigi faciet nouas clausuras infra Manerium predictum ad dampnum et preiudicium tenencium et inhabitancium de Thingdon predicta. Et vltiorem directionem ceperunt domini prelibati <sup>9</sup> quod vbi tenentes et inhabitantes de Thingdon predicta queruntur quod cuniculi dicti Johannis Mulsoo corrodunt et destruunt indies grana tenencium et inhabitancium predictorum in campis de Thingden crescencia, quod idem Johannes Mulsoo pro posse suo maiorem partem cuniculorum suorum ibidem destrui faciet, Reseruatis sibi aliquibus cuniculis et eorum incremento ad fouendum domicilium suum.

*Indorsed.* Pro Johanne Mulsho.

*In a later hand.* Mulsoo v. Dey et alios.

<sup>10</sup> ita quod vtantur viis suis extra clausuras per dictum Johannem de nouo erectas si commode possint, sinautem infra clausuras com-

<sup>4</sup> Abp. Warham; see A, p. 6, n. 2.

<sup>5</sup> Thomas Howard, Earl of Surrey, 1489; Lord Treasurer, 1501; created Duke of Norfolk, February 1, 1514; d. 1524 ('Dict. Nat. Biog.').

<sup>6</sup> Richard Foxe or Fox, bishop of Winchester; born about 1448; educated at Magdalen College, Oxford; Lord Privy Seal, 1487; bishop of Winchester, 1501; died 1528 ('Dict. Nat. Biog.'). It is to be noted that these three, the Chancellor, the Treas-

urer, and the Lord Privy Seal, were the three officials whom the Common Law Judges, in 1493, pronounced to be the only judges of the Court of Star Chamber. See 'Select Cases in the Star Chamber' (1902), pp. xxxiv-xxxv. Cp. Introd. pp. ix-xi.

<sup>7</sup> Sic.

<sup>8</sup> Roads and paths.

<sup>9</sup> Praelibatus, supradictus. C. Du Cange, 'Glossary' (ed. 1845), s.v.

<sup>10</sup> A fragment of another rough draught of the decree.



petentem viam habebunt vbi talem consueuerunt habere, ita quod vsus eiusdem vie non sit ad magnum detrimentum dicti Johannis et pasture sue ibidem conculcacionem.

nec dictus Johannes nouas clausuras dehinc eriget seu erigi faciet aliter quam Jura Regni id sinunt.<sup>11</sup>

D.<sup>1</sup> (Decree of the Court of Star Chamber.)

1510 Memorandum in causa que hic dependit Inter inhabitantes de Thyngden querentes et Johannem Mulsho partem querellatam de et Super erectione quarundam Clausurarum et fossarum per dictum Johannem Mulsho de nouo erectarum in campis de Thingden vbi inhabitantes predicti pretendunt habere communem<sup>2</sup> pasture<sup>2</sup> talis directio capta est ex assensu vtrarumque partium videlicet quod dictus Johannes Mulsho et heredes sui imperpetuum gaudebunt omnibus clausuris et campis clausis in villa et Campis de Thingden predicta Et quod nec dicti inhabitantes nec tenentes ville et manerii de Thingden predicta nec heredes sui posthac vendicabunt sibi aliquam communem<sup>2</sup> pasture<sup>2</sup> infra dictas clausuras sed ab aliqua communi pasture infra dictas clausuras habenda sint exclusi imperpetuum. Dictus tamen Johannes non faciat aliquas clausuras de nouo erigi nisi solum eas que nunc sunt erecte in Campis Manerii predicti.<sup>3</sup> Et etiam Idem Johannes paciatur omnes tenentes et inhabitantes de Thingden predicta gaudere omnibus viis et semitis ad vehendum et revehendum in Campis predictis per eundem Johannem Clausis de quibus viis et semitis antehac seisiati fuere et non aliter.<sup>4</sup> Dictus tamen Johannes eo quod inhabitantes de Thingden predicta queruntur quod Cuniculi dicti Johannis indies Corrodunt et destruunt grana dictorum tenentium et inhabitancium in Campis de Thingden crescentia, pro posse suo destruet seu destrui faciat maiorem partem cuniculorum suorum reseruatis sibi aliquibus Cuniculis ad fouendum Domicilium suum.

<sup>11</sup> Preceding the above, on the same sheet of paper, is a copy of the Eighth Psalm—*Domine, Dominus noster*—in Latin, omitting the fifth verse. The first verse is written five times. On the other side is a rough draught of verses to a lady whom the writer has offended.

<sup>1</sup> 'Star Chamber Proceedings,' Hen. 8, Bundle xxxii. No. 70. The signatures are in the same hand as the memorandum.

<sup>2</sup> Sic.

<sup>3</sup> This is substituted for the more ambiguous wording of the draught C, which

bound J. M. not to make new inclosures to the damage and prejudice of the inhabitants.

<sup>4</sup> This clause, when compared with the corresponding clause in the draught C, is less indulgent to the inhabitants. The legal term 'seisiati' excludes a customary trespass, such as might have been justified under 'quas antehae consueuerunt,' throws the burden of proof of seisin on to the inhabitants, and further guards against trespass by the addition 'et non aliter.'

## Presentibus ad editionem huius decreti.

Cantuariensi cancellario <sup>5</sup>	Comite Surr' thesaurario <sup>11</sup>
Wintoniensi <sup>6</sup>	Comite Salopie senescallo <sup>12</sup>
Durolmensi <sup>7</sup>	Domino Herbert Camerario <sup>13</sup>
Norwicensi <sup>8</sup>	Priore Sancti Johannis Jerusalem <sup>1</sup>
Exoniensi <sup>9</sup>	Henrico Marney Cancellario D.L. <sup>15</sup>
Abbate Westmonasterii <sup>10</sup>	Thoma Louel thesaurario <sup>15</sup>
	hospicii Regis
	Johanne Cutt <sup>17</sup>
	Roberto Drurye <sup>18</sup>
	Roberto Southwell <sup>19</sup>
	Erneley <sup>20</sup> attornato Regis

<sup>5</sup> See A, p. 6, n. 2.

<sup>6</sup> See C, p. 9, n. 6.

<sup>7</sup> This form, for which I can find no authority, appears to have been a guess of the clerk of the Star Chamber. R. Gough's edition of 'Camden's Britannia' (1806), iii. 351, has, 'The Saxons gave it the name of Dunholme. For they called a hill Dun, and a river island Holme, as we learn from Bede. Of this Latin writers have made Dunelmus, but the common people most corruptly call it Durham, or Duresme.' In R. Surtees, 'Hist. of Durham' (1816), i. pp. cxxv-cxxv, are a number of charters in Latin, French, and English, relating to the Bishops of Durham. In all the Latin charters the Bishop is 'Episcopus Dunelmensis.' In the French charter of November 12, 30 Ed. I. (1302), 'l'evesque de Duresme' (p. cxxviii), and so in other French documents (pp. cxxix, cxxxiii). In English documents it is Duresme, temp. Ed. 4 and Hen. 7, pp. cxxxiii, cxxxiv, but in a proclamation of 13 Eliz. (1571) it is Bishop of Durham (p. cxxvi).

The Bishop of Durham in 1510 was Thomas Ruthall, or Rowthall, a native of Cirencester. He was educated at Oxford; was secretary to Hen. 7 and Hen. 8; was made Bishop of Durham in 1509. He died in 1523 at Durham Place, London, and was buried in St. John's Chapel, Westminster Abbey ('Dict. Nat. Biog.').

<sup>8</sup> Richard Nycks, Nickes, Nix, Nykke, &c., LL.D., of Trinity Hall, Cambridge; vicar-general to Richard Foxe, then Bishop of Exeter in 1493, and to Foxe, when Bishop of Durham, in 1495; Bishop of Norwich, 1501; died 1535 ('Dict. Nat. Biog.'). He also sat as judge in the Court of Requests. See 'Select Cases' in the Court of Requests (Selden Society, 1898), pp. xviii, ciii, cv, cvi.

<sup>9</sup> Hugh Oldham, educated in the household of Thomas Stanley, Earl of Derby,

husband of the Lady Margaret, mother of Henry 7, together with William Smyth, founder of Brasenose College, Oxford, to which Oldham became a benefactor; afterwards at Oxford and at Queens' College, Cambridge; Bishop of Exeter, 1504; a great benefactor of Corpus Christi College, Oxford, founded by Bishop Richard Foxe. Oldham founded the Manchester Grammar School in 1515. He died June 25, 1519 ('Dict. Nat. Biog.').

<sup>10</sup> John Islip, elected Abbot in 1500; held office in Gray's Inn in 1492 ('Gray's Inn Admission Register' (1889), p. 1); a member of the Privy Council, 1513; died 1532 ('Dugdale Monast.' i. 277, 'Dict. Nat. Biog.'). In 1528 he was appointed, with others, 'to sytt dayly in the Kinges Court of Requestes.' Select Cases in the C. R. civ. He was one of the mitred abbots, with a seat in the House of Lords.

<sup>11</sup> See C, p. 9, n. 5.

<sup>12</sup> George Talbot, fourth Earl of Shrewsbury and Earl of Waterford, born 1468, son and heir of John Talbot, third earl. He was appointed lord steward of the Household by Henry 8, on his accession in 1509; was a staunch supporter of the king's policy, and, next to the Duke of Norfolk, was mainly instrumental in suppressing the rebellion of 1536. He died July 26, 1538 ('Dict. Nat. Biog.').

<sup>13</sup> Charles Somerset, born about 1460, illegitimate son of Henry Beaufort, third Duke of Somerset. During his childhood he was a Lancastrian exile in Flanders, where he was knighted by the Archduke Philip. Henry 7 made him a privy councillor in 1485, captain of the yeomen of the guard in 1486, and Admiral in 1488; K.G. 1496. In 1501 he was appointed vice-chamberlain of the Household, and Lord Chamberlain in 1508. Having married, in 1478, Elizabeth, suo jure Baroness Herbert, he was summoned to Parliament on Octo-



ber 17, 1509, as Lord Herbert. He was Lord Chamberlain to Henry 8 from 1509 to his death in 1526. In 1514 he was created Earl of Worcester. G. E. C., 'Complete Peerage.'

<sup>14</sup> Sir Thomas Docwra, of Highdown, Herts; Grand Prior, 1502-27. He served as ambassador to Philip, King of Castile, in 1507; to France in 1510, 1514, and 1518; to the Council of the Lateran in 1512; to the Emperor in 1521. He died 1527 ('Diet. Nat. Biog.'). He ranked as a Temporal Peer, taking precedence among the Barons ('House of Lords Journals,' i. 11, &c.) He was sometimes known as 'My Lord of St. John's' ('Select Cases in the Court of Requests,' p. lxxxii). In 1519 he was nominated by Wolsey with seven others 'to hear the causes of poor men depending in the Sterred Chamber,' and to 'sit in the White Hall in Westminster, where the said suitors shall resort' (L. and P. Hen. 8, iii. 571). This was the institution of the Court of Requests as a fixed tribunal with a permanent habitat. See 'Select Cases in the Court of Reports,' pp. xi, lxxxi.

<sup>15</sup> For Sir Henry Marney see Newcastle, Mayor, &c., of, v. Artificers of, p. 110, n. 29. The letters D. L. after his name probably stand for 'Ducatus Lancastriensis,' he having been made Chancellor of the duchy in 1509 (L. and P. Hen. 8, i. 944).

<sup>16</sup> Sir Thomas Lovell, Steward of the Household, 1509. See further Newcastle, Mayor, &c., of, v. Artificers of, J, p. 109, n. 28.

<sup>17</sup> Sir John Cutt, Knt., Under-Treasurer of England. In W. Campbell's 'Materials for the reign of Henry 7,' i. p. 187, is a general pardon and release to John Cutte, of London, gentleman, for all manner of offences committed before that date (November 29, 1485), and from all the consequences attaching thereto. This form suggests that Cutte was an official who, having served under Richard 3, was taking steps to make his peace and perhaps to preserve his place. A confirmation of this inference may be seen in the issue of a commission dated 10 July, 1489, to five officials of the duchy of Lancaster and John Cut and Thomas Welles to inquire into and reform omissions to renew leases and other disorders in the duchy, 'whereby the payment of divers and many of' the King's 'rentes and duetes have beene conceled and withdrawn' (ib. ii. 462). For an inquiry of this sort a clerk in the Treasury would be a likely person to be appointed. At any rate, the name being most uncommon, it is probable that this commissioner was the John Cutte styled in a document of 1516 as Sir John Cutte, of London (L. and P. ii. 2123), and in the will of Henry 7, appointing

him one of the King's numerous executors, 'Sir John Cutte, Knight, our Under Treasurer General' (March 31, 1509 (Sir N. H. Nicolas, 'Testamenta Vetusta' (1826), i. 35). To Cutte, as to each of his other executors, Henry bequeathed 100*l*. As 'Sir John Cutt, Knight,' he was also the executor of the Admirable Criehton of his age, Sir Reginald Bray, K.G., under his will dated August 4, 1503 (ib. ii. 446). He was probably a Privy Counsellor under Henry 7, for he is mentioned as one in a commission of June 15, 1509, less than two months after Henry 8's accession (L. and P. Hen. 8, i. 181). In 1510 he signs, as such, the cancellation of four recognizances evidently extorted by Empson and Dudley (see ib. 1004, 1372). He had doubtless acquired an estate in Essex as early as 1509, for on July 18 of that year he was nominated on the Commission of the Peace for the County (ib. 310). The list of those commissioned omits his title of 'Sir,' but the identity is assured by its insertion, 'Sir John Cutte,' upon the next commission issued, dated December 4, 1510 (ib. 1368). He continued Under Treasurer after the accession of Henry 8. He and another Privy Counsellor, Henry Wyat, exercised supervision over the purchase and export of tin and lead, in which the Treasury was largely interested (ib. 181; cf. ib. 1348). On December 11, 1510, he was nominated on the Commission of the Peace for Buckinghamshire, an indication of the acquisition of land in the county (ib. 1379). He is styled in a grant to him of the stewardship of the manor of Claveryng, Essex, on February 12, 1511, 'Sir John Cutte, counsellor and Treasurer' (ib. 1492). During these years his signature frequently appears among those of the members of the Privy Council, proving his active participation in the affairs of State (ib. 1527, 1540, 1574 &c.). He may be inferred to have acquired the manor of Childerley, Cambridgeshire, about this time, for on May 24, 1511, he was first nominated on the Commission of the Peace for that County (ib. 1684). (D. Lysons in 'Magna Britannia,' ii. i. p. 165 [Cambridgeshire] is certainly mistaken in representing the purchaser of Childerley as the son of Sir John Cutts, of Horeham Hall, Essex, there having been no knight of the name of Cutte or Cutts before the Under-Treasurer, whose will shows him to have owned land both in Cambridgeshire and at Thaxstede, in Essex, in which Horeham Hall is situate.) Cutte was in 1512 nominated 'purveyor of artillery' &c. (ib. ii. 2123) and, as such, was active in connexion with the warlike stores for Henry 8's war with France and Scotland (November 1, 1512, ib. i. 3496 i.; cf. ib. 4442, 4931). In 1513 he was a commissioner of gaol delivery for Newgate (ib.



3765). He furnished 25 mariners for the crew of the king's ship, 'The Great Bark,' which defeated the French fleet on April 25, 1513 (ib. p. 551). He himself accompanied the king to France in the following July (ib. p. 651) he being on board the 'John Hopton,' of 400 tons. In the same year (May 5) he was nominated on the Commission of the Peace for Huntingdonshire, and, unless this was in virtue of any office in the county held by him, it may be inferred that he was still acquiring landed property (ib. 4006). He did not remain in France, for on September 3 he signs as one of the Council of the Queen Regent Katharine (ib. 4434). His services were rewarded by the Queen's grant to him on March 17, 1514, of a lease during her life of the manor and borough of Thaxted, Essex, at the rent of 57*l.* 7*s.* This grant was enlarged by Letters Patent of Henry 8 dated June 29 following, granting the reversion in fee-farm, that is, in perpetuity, at the same rent. (P. Morant's 'Hist. of Essex' (1768), ii. 439; L. and P. ii. 601.) His acquisitions were so considerable that Leland deemed him worth the following memoir. 'Syr John Cutte, knight and Under-Treasurer of England, bought of one Savelle, a man of fair landes in Yorkshire then beyng yn troble, the lordship of Godhurste (Godard's Castle), with the ruines of a castelle that standith aboute a 2 miles from the bank of Medweye ryver, and a 2 milys from Maidestone . . . Old Cutte married the daughter and heyre of one Roodes aboute Yorkshir, and had by her a 3 hunderth markes of landes by the yere. Old Cutte buildid Horeham-hawle, a very sumptuous house in Estsax by Thaxstede, and there is a goodly pond or lake by it and faire parkes there about. Cutte buildid at Childerley in Cambridgeshire' ('Itinerary,' Pt. iv. f. 50). Of this house but a fragment is left, but Horeham, Horham or Horam Hall still remains, situate one mile S.W. of Thaxted (J. Murray, 'Handbook to the Eastern Counties' (1892), pp. 49, 467). A picture of Horham Hall, a fine mansion with a tower, is to be seen in C. R. B. Barrett, 'Essex' (1892), p. 125. Cutte's experience in connexion with munitions of war doubtless led to his nomination on May 18, 1516, upon a commission with seven others to inquire concerning the ordnance, &c., of the Tower of London or vessels within its precincts (L. and P. ii. 1908). He appears to have engaged in his private capacity in the lead trade (ib. 2018; cf. ib. p. 1444). He was pricked sheriff of Cambridgeshire and Huntingdonshire on November 10 following (ib. 2533), and on March 20, 1517, was nominated a commissioner of sewers for Norfolk (ib. 3038), in which county, as his will shews, he had acquired property. In the autumn of the

same year he was returned by the commissioners to inquire into inclosures as having inclosed 250 acres at Childerley ('Trans. R. Hist. Soc.' N.S. vi. 179 (1892)). In the following year (April 26, 1518) he obtained from the Crown the lease for 20 years, at 20*l.* 6*s.* 8*d.*, of the manor of Newport Pounce, Essex, parcel of the Duchy of Cornwall (ib. 4121). Upon the occasion of a general search for suspected persons in London in July 1519, Cutte, who, as one of the Council, ordered the search, examined the suspects taken in Holborn, Paddington, &c. (ib. iii. 365, 2, 19). He was nominated to represent Cambridgeshire and Essex in attendance upon the king at the Field of the Cloth of Gold in 1520 (ib. pp. 241, 243). As Under-Treasurer he acted as custodian of important diplomatic documents &c. (ib. 849, 928, 973 &c.). He added to his land in 1520 by taking a lease from the Crown of the site of the manor of Flampsted, Herts (ib. 273). He died April 4, 1520 (Morant ii. 439), and his will was proved in 1521, he being described as of Thaxstede, Essex; Cambs.; Middlesex; Norfolk, and Yorkshire (J. C. C. Smith, 'Index to Canterbury Wills'). His wife Elizabeth survived him and on August 24, 1522, obtained the wardship of her daughter-in-law Eleanor Marshall, who was married to her son Henry Cutte during infancy (L. and P. iii. p. 1046). His son and heir, John Cutte, also called Cutts, succeeded him at the age of 13. This son married Lucy Browne, heir of Isabella Ingoldsthorpe, widow of Sir John Nevill, Marquis of Montagu (cf. N. H. Nicolas, 'Test. Vet.' p. 588). She received an annuity from the Crown of 66*l.* 13*s.* 4*d.* (ib. ii. 2736; cf. Blomefield's 'Norfolk,' viii. 405). He died at the age of 21 in 1528, leaving a son John, afterwards knighted (see Morant, ii. 439). John, Lord Cutts, the famous general of Marlborough's campaigns, was descended from Richard, a brother of Sir John Cutte. According to Hasted, Sir John Cutte inherited the manor of Binbury, Kent, acquired by his ancestor in the reign of Edward 4 ('Hist. of Kent,' ii. 495).

<sup>18</sup> Sir Robert Drurye or Drury, of Lincolnshire, barrister-at-law, knight of the shire for Suffolk and Speaker of the House of Commons, 1495. He was a member of the Privy Council and a judge in the Court of Requests under Henry 7. See 'Select Cases in the Court of Requests,' pp. cvi, cxix, 118. (The 'Dict. Nat. Biog.' wrongly assigns 1526 as the date of his membership of the Privy Council.) He died in 1536. See further 'Dict. Nat. Biog.'

<sup>19</sup> Sir Robert Southwell, probably the R. S. admitted to Lincoln's Inn on October 10, 1484. (L. I. Admission Register (1896), i. 23.) He was the elder son of Sir

Richard Southwell, of Barham Hall, Suffolk, and Woodrising, Norfolk ('Diet. Nat. Biog.' sub Southwell, Sir Richard). In 1494-95 he was High Sheriff of Norfolk ('Paston Letters,' ed. J. Gairdner, 1875, iii. 385). He was holder of an office at Court involving responsibility for the arrangements at the reception of Katharine of Aragon in 1501 ('Letters, &c., of Richard 3 and Henry 7,' ed. J. Gairdner, 1861, i. 404), and received knighthood on February 18, 1504, the occasion being the creation of Prince Henry (afterwards Henry 8) as Prince of Wales (W. A. Shaw, 'The Knights of England,' 1906, ii. 34). At the accession of Henry 8 Southwell was Chief Butler of England ('capitalis pincerna') (L. and P. Henry 8, i. 1242). His name is on Henry 8's first Commission of the Peace for Essex, dated July 18, 1509 (ib. 310). This was probably not for the first time, but arising from his first marriage to Anne —, in whose right he was in 1495 lord of the manor of Coggeshale Hall ('Inq. p. m. Hen. 7' (1898), i. 1144). He was in the same year (July 8) and in after years on the Commission of the Peace for Suffolk (L. and P. i. 280). He received on August 26, 1509, a grant of the stewardship of the forfeited lands of the de la Pole family in Norfolk and Suffolk, of the late Earl of Warwick's lands in Woreestershire and Staffordshire, of those of Eleanor, Duchess of Somerset (d. 1468), of those which had descended from her to Edmund Lord de Ros, and of the lands in Norfolk and Suffolk of William Lord Beaumont, deceased (ib. 458). These appointments were together probably very lucrative, for we know that he received from the de la Pole lands alone 26*l.* yearly (ib. 1346, as to which lands see further, ib. 4254). On February 8, 1510, he was granted an annuity of 100 marks (66*l.* 13*s.* 4*d.*) from the prisage and butlerage of wines during his tenure of the office of Chief Butler of England (ib. 875). In this grant he is styled, though not in the previous one, 'Knight of the Body,' a coveted distinction. His important duties in Norfolk and Suffolk naturally led to his being appointed a commissioner of jail delivery for Bishop's Lynn on February 13, 1510 (ib. 884), and on the Commission of the Peace for Norfolk (November 20, ib. 1340) in this and subsequent years. To the stewardship of the lands already enumerated, he added on February 6, 1511, the office of 'overseer and approver' of those of the late Lady Margaret, Countess of Richmond, the king's grandmother, and of a great number of lands of attainted Yorkists and others then in possession of the Crown (see ib. 1472). An Act of Parliament, 'Pro Roberto Southwell Milite et Bartholomæo Westby,' the last a Baron of

the Exchequer, passed in the spring session of 1512 (3 Hen. 8. c. 23) and printed in the Statutes of the Realm, discloses in its preamble that Southwell had acted as auditor of these estates in the reign of Henry 7, and gives statutory sanction to the new appointment, with elaborate provisions for taking the accounts, &c. This Act was followed in the autumn session by a still longer one, also printed, covering the same ground, but extending Southwell's powers ('Pro Roberto Southwell Milite,' 4 Hen. 8, c. 18; cf. L. and P. i. 4022). The lavishness with which grants were made to Court favourites was again illustrated by the grant to Southwell for life on April 23, 1513, of the manors of Saltham Tong, Nekton, Panworth Halle, and Cressingham Parva, and of the Hundreds of Wayland and Grymmeshowe, Norfolk, with an annuity of 100*l.* and a further allowance of 800*l.* from the beginning of the reign at the rate of 200*l.* a year. As the annuity of 100*l.* was expressed to be out of the issues of the earldom of Richmond, these grants perhaps represented the salary of the numerous and responsible offices held by him (ib. 3943). His style in respect of these functions was 'General Auditor' (ib. 5137). He was appointed to accompany the fleet for the invasion of France in the summer of 1513. At the head of a retinue of twenty-five, with his brother official, Sir John Cutte, attended by a like number, Sir Robert Southwell was assigned to 'the Great Bark' of 400 tons, commanded by two captains, Sir Henry Sherborne and Sir William Sydney (ib. 3977). In another list, however, Southwell is assigned to the 'Lezarde' of 120 tons. His name now appears in connexion with the purchase of horses for the King's use in the war (ib. 4067; cf. ib. 5748). But he could not have remained long in France, for on September 3 both he and Sir John Cutte, as members of the Privy Council, countersigned the documents signed by Queen Katharine as Regent (ib. 4434). His account of the moneys that passed through his hands during the campaign is dated October 31 (ib. 4533; cf. ib. 4630). His death took place on March 31, 1514, without issue (Morant, ii. 21). He had been three times married, his second wife being Ursula de Bohun, daughter and co-heir of Sir John de Bohun, through whom he became possessed of the manor of Little Badow Hall, and afterwards, on the death of her sister, Mary Owen, of Filiol's Hall, Essex. Both of these estates were, however, alienated by him to Henry 8. His third wife, who survived him, was Elizabeth, sister and co-heir of John Dinham, Lord Dinham, and widow of Fulke Bourchier, Lord Fitz-Warine, who died in 1479.



(On the dorse, in another hand.)

<sup>21</sup> Bulholme	The close at Papley <sup>22</sup>	iiij or v acur pastur
Depdale	one peruon is poase <sup>23</sup> close wod	j acra
Mileclose <sup>24</sup>	a close called the Salowys	Wod. j Rod
Westtowne is hend <sup>25</sup>	a close at Bery grene	Citus manerii j acur
Tryndull close	a close called the orchard	3 pars Rode
Priour is close	a close callyd lyme kyll	noe Such
	a close at pig is dyche	Wod. dimidia acra prati
	ii closes at North Holme	Wod. ij Rode

E.<sup>1</sup> ix <sup>2</sup>

In his most humble wise shewith vnto your Highnes your poore 1527  
true subiect Henrie Selby dwellyng in the Towne of Thynden in your

Lady Fitz-Warine died October 15, 1516 (G. E. C., 'Complete Peerage,' sub Fitz-Warine). In the probate of his will (1514), he is described as of 'Freers Preehors, London, and Wooderising, Norfolk,' and as his widow was interred at the Grey Friars, London (ib.), it is probable that this was his burial-place also. His heir was Richard, son of his brother Francis and elder brother of Sir Robert Southwell, the Master of the Rolls in 1542, whose wardship was granted to his widow and William Wotton (February 1, 1515, L. and P. ii. 96; cf. p. 1486), and after his death to Sir Thomas Wyndeham and Edward Knyvet (ib. p. 1490).

<sup>20</sup> John Erneley or Ernle, second son of John Ernle, of Ernle, Sussex, by Agnes, heir of Simon Best, lord of the manor of Etehilhampton, Wiltshire. Erneley was Solicitor-General July 12, 1507; Attorney-General April 28, 1509; knighted and appointed Chief Justice of the Common Pleas January 27, 1519. Died 1521. He was twice married, and left four daughters and two sons. The brass of his second wife, Margaret, daughter of Edmund Dawtry, esquire, was found in the Thames near Chelsea, in the middle of the last century, and is now in the museum of the Society of Antiquaries. She died, as the inscription shews, August 18, 1518 (E. Foss, 'Lives of the Judges' [1859], v. 161).

<sup>21</sup> None of the following names is to be found on the modern inch-to-a-mile Ordnance Map, though 'Queen Edith's Cross' keeps alive the memory of the wife of the Confessor. Cf. p. 29, n. 5, *infra*.

<sup>22</sup> About three-quarters of a mile N.N.E. of Thingden (Finedon) is to be found 'Poplar Lodge,' which possibly represents Papley.

<sup>23</sup> These words are doubtful. Qu. 'one portion is pasture.'

<sup>24</sup> Two mills are marked in the Ordnance Map on the river Ise, West of the village.

<sup>25</sup> Westfield Lodge is marked, about half a mile N.W. of the village.

<sup>1</sup> The date of this is fixed as Michaelmas Term, 1527, by the mention of the 'last eourte,' at which Henry Selby prayed admittance. This court is stated by Thomas Mulsho in Document U (p. 59) to have been holden on October 17, 19 Henry 8 (1527). From the definite statement of John Mulsho in his answer to Selby's bill of 1534 in the Court of Requests that it was in that Court that Selby filed a complaint about the fine in 20 Henry 8, I incline to think that this was that bill; that Mulsho so dates it because the decision was given in 20 Henry 8, and that when Selby in 1528 filed a bill in the Star Chamber (F), complaining of Mulsho's inclosures, as well as of his fines, the Court of Requests gave judgement as Mulsho says, in the matter of fines only, while the Star Chamber dealt with the inclosures only. This document, therefore, really belongs to the Court of Requests, from which it was probably taken by the Commissioners who inquired into the inclosures. See p. 316.

<sup>2</sup> S.C.P. Hen. 8, Bundle xxxii. 70. The numerals ix refer to some former numeration of the documents.



Countie of Northampton the which Towne is Auncien demesne<sup>3</sup> and certen landes ther holden by Copie of Courte rolle after the custome of the Maner<sup>4</sup> ther and so hath been oute of tyme of mynd And he saith that the Custome of the said Maner is their that yf eny Copie Holder the whitch is seased in his demesne as of Fee<sup>5</sup> after the Custome of the Maner die seased of eny Copie hold landes that his next heir shall come to the next courte And yf in the same Courte he be found heir he shold be admytted to the landes<sup>6</sup> after a reasonable fyne that is to say after the Custome of the Maner ther to pay one yeez rent after the rate of his rent for a yere for his Fyne and so to be admytted.<sup>7</sup> So it is most gracious souerain lord that one John Mulsoo Esquier hath a Maner ther in Thyndon aforsaid to the whitch ther belongith certen Copiholderz the whitch afore tyme both he and his Auncesterz hath vsid after the Custome of the same Maner after the deth of sutch Tenauntez to take but reasonable fynes after the rate aforesaid vnto Nowe of late that the said John Mulsoo hath exacted and compellid by his extorte<sup>8</sup> power for Malice certen of his tenauntz Inhabitauntz ther in the said Towne of Thynden after the dethe of their Auncesturz to pay outragiez and vnreasonable Fynes Allmost to their vndoing and the distruccion of the said Towne for the whitch mysdemeanour dyuers of thenhabitauntz of the said Towne and tenauntz of hym by Copie Made compleynt vnto your highnes for the whitch of your most gracious Pitie yee adressed your gracious letturz vnder your Privey Seale the xvth day of Februarie last past<sup>9</sup> vnto the said John Mulso Commaundyng hym by the same that he in no wise from thensfurth shold take of eny of the said tenauntz eny larger or gretter Fynes other then of old Auncient tyme hath been vsid and

<sup>3</sup> As to this see Introd. p. lxxx.

<sup>4</sup> Of the tenure in Ancient Demesne, called by Braeton 'villein-soeage,' claimed by the plaintiff Selby, Blackstone writes: 'In these surrenders of lands in antient demesne of frank tenure, it is not used to say "to hold at the will of the lord" in their copies, but only "to hold according to the custom of the manor."' ('Commentaries,' Bk. ii. c. 6 [2nd ed. 1767], p. 101.)

<sup>5</sup> The formula expressing freehold. 'These tenants, though their tenure be absolutely copyhold, yet have an *interest* equivalent to a freehold' (ib. p. 100).

<sup>6</sup> 'Where the custom hath been to permit the heir to succeed the ancestor in his tenure, the estates are stiled copyholds of inheritance' (ib. p. 97).

<sup>7</sup> See Introd. pp. lxiii-iv.

<sup>8</sup> Extortionate; common in this phrase, *l.c.* F, p. 20, *infra*.

<sup>9</sup> Letters of Privy Seal were sometimes only monitory, expressing no penalty. Such were perhaps issued by way of interim injunction upon an *ex parte* complaint, upon the precedent of the Court of Chancery, which did not issue the Subpœna unless the case stated in the bill was considered to warrant it. (G. Spence, 'Equitable Jurisdiction of the Court of Chancery' [1846], i. 369.) The letters issued in the King's name, and might be either from the Court of Requests or the Star Chamber. 'In antient time,' says Hudson, the historian of the Star Chamber in the reign of James I, 'the Court began every case with an injunction, to settle the possession in peace until the cause were determined' (*Colleetanea juridica* [1792], ii. 196). See further as to letters of Privy Seal, 'Select Cases in the Star Chamber' (1902), xxi. n. 4.

accostomed to be paied and nowe of late one John Selby Fader vnto your said Suppliaunt was seased of a Mese<sup>10</sup> a close and dimidiate<sup>11</sup> yeerd land with thappourtenaunces in Thynden aforesaid in his demcasne as of Fee after the Custome of the said Maner and so seased held the same by Copie of the said John Mulso as of his Maner ther by three seuerall rentes amountyng to vjs. iiis.<sup>12</sup> *ob.* by yere and therof died seased and nowe at his last courte holden their<sup>13</sup> the said Henrie Selby your said pore Suppliaunt was Founde Son and heir to the said John Selby and cam to the Courte and offird his fyne after the old Custome and the said John Mulso and his Steward the same Fyne refused and in no wise wold admyte hym to his said landes and tenementes except he wold giff hym xxxs. for a fyne and so the said Mulso not onlie contemptuoslie disobeyed your said high commaundment but also doth agaynst the said gud and reasonable Custome of the said Maner And Moreover of his insaciabie mynd sithen the dethe of his<sup>14</sup> said fader hathe Feld and caried away as mytch wod of the said ground as was to the value of iiij li<sup>15</sup> contrarie to the Custome and vsage of the said Maner<sup>16</sup> And vnto the vtter vndoing of your said Orator onles dewe remedie be proveyded in that behalf in consideracion wherof it may please your highnes to comaund the same Mulso to aunswer as well to the said contempt as to odr the premysses and to take sutch odr therin as your said oratour may occupie his copie hold Accordyng to right and gud conscience and he shall dailie pray etc.

*Indorsed.* Selby contra Moulso.

*In a later hand.* Selby v. Mulso et al.

<sup>10</sup> An Old French form now obsolete = message. See Murray, 'Engl. Diet.'

<sup>11</sup> MS. 'di.' Murray gives no example of 'dimidiate' earlier than the 18th century.

<sup>12</sup> 's' after 'iii' apparently a mistake for 'd.' See Introd. p. lxiv, and F, p. 18, *infra*. A yardland or virgate was an indeterminate area, generally between 20 and 30 aeres.

<sup>13</sup> October 17, 1527. See p. 59 *infra*.

<sup>14</sup> Selby's.

<sup>15</sup> This took place on October 28, 1527. See F, p. 20 *infra*.

<sup>16</sup> If Henry Selby's contention were correct and this were a 'copyhold of frank tenure,' to use Coke's phrase ('Complete Copyholder' [ed. 1673], § xxxii.), in a manor of Ancient Demesne, then this would be an act of waste committed by Mulsho, Selby holding an estate of inheritance, and timber being part of the inheritance (Coke, 4 'Rep.'

62). For the same reason, if Mulsho's contention were correct, and Selby only a tenant at will of the lord according to the custom of the manor, the carrying away of the timber by the lord would not be actionable, save in so far as it violated the custom of the manor. But 'a copy-holder may take House-bote, Hedg-bote and Plough-bote upon his Copyhold lands of common right, as a thing incident to the Grant, if it be not restrained by a Custom that the Copy-holder may not take it but by Assignment of the Lord or his Bailiff. And if the Lord, where the Tenant hath such Botes, cuts down all the Woods and Under-woods which are standing and growing upon the Lands, to prevent the Copy-holder of his Botes, he may have an action of trespass against the Lord' ('Compl. Copyh.' Supplement [1673], xiii.).

F. i<sup>1</sup> To the kynge our Soveraign lorde and the lordes of hys most honorable cownsayle.<sup>2</sup>

1528 Lamentably and in Most humble wyse shewyth and Complayneth vnto your most excellent hyghnes your dayly oratour Henry Selby of Thynden in the countye of Northampton husbondman sonne and heyre of John Selby husbondman deceassyd that where the sayd John was seysed of and in a mease and xvi acres of lande<sup>3</sup> sett lyenge and beyng [in]<sup>4</sup> Thynden aforesayd in his demean as of fee holden of one John Mulso easquyer lorde of the maner of Thynden in the countye of Northampton aforesayd after [the]<sup>4</sup> custome of the sayd manour and the sayd John soo beyng seysed of the sayd mease and other the premysse dyed seysed after whose deth the sayd landes and tenementes descendyd [and of]<sup>4</sup> Ryght owght to descende vnto your sayd oratour as sonne and heyre of the sayd John whyche was presentyd by the othe of xij lawfull<sup>5</sup> and indyfferent men in the courte of the sayd Mulso after the custome of the sayd manour And your sayd oratour sayeth that tyme owt of the mynde of man it hath bene vsyd by an olde Auncyent Custome approvyd within the sayd lordeship that after the deth of any tenaunt within the sayd lordeship the heyre of the sayd tenaunt shuld pay vnto the lorde of the sayd manour for the tyme beyng for a fyne but onely the value of the chyef rent of and for the sayd landes and tenementes for one yere Soo it ys most gracyous lorde that your sayd oratour after the deth of hys sayd Father and afore the purchassyng of thys subpena<sup>6</sup> after the Rate of hys tenure at thynden aforesayd offerd to paye vnto the sayd Mulso vs. *ijjd. ob.* whyche ys the chyef rent due for the sayd landes and tenementes<sup>7</sup> and humbly Requyred hym to accept and take the sayd vs. *ijjd. ob.* of your sayd besecher and to admytt your sayd

<sup>1</sup> This number refers to an earlier numeration of the documents evidently made by a clerk without regard to their contents.

<sup>2</sup> This is the "bill filed in the Star Chamber, as the indorsement shews, in Hilary Term (January 23 to February 12), 1528.

<sup>3</sup> This is the close and dimidiated yard-land of the former bill, E, p. 17.

<sup>4</sup> MS. injured.

<sup>5</sup> "Legalis homo" is taken for a person that stands Rectus in Curia, and in this sense are those words so often used "Probi et legales homines." Hence, legality is taken for the condition of such a man' (J. Cowel, 'Interpreter').

<sup>6</sup> Note has already been made (E, p. 16, n. 9) that the plaintiff in the first

bill—probably filed in the Court of Requests—petitioned for the issue of Letters of Privy Seal. With this bill in the Star Chamber he prayed the issue of a Writ of Subpœna. There cannot be much question but that the filing of the bill formerly preceded the issue of the subpœna, a point discussed in *Select Cases in the Star Chamber* (1902), pp. xviii–xix. At a later time, as we learn from Hudson, the issue of the subpœna regularly came first. While the expression in the text seems to shew that this practice had already begun, the close of this petition is in the ordinary form of a prayer for the issue of a subpœna.

<sup>7</sup> The Abbot of Peterborough held the Hundred of Huxloe, in which Thingden is situate (see *Introduct.* p. lxxxvii).



oratour to the sayd landes and tenementes after the custome of the sayd manour whyche to doo the sayd Mulso hath at all tymes refused and yet doth and sayeth further that your sayed besecher shall content and pay hym suche a Fyne for the sayd landes and tenementes as he woll demaund at hys pleasure orelles your sayd oratour shall not enjoye any landes and tenementes within hys sayd lordeship And for by cause your sayd oratour woll nott paye vnto the sayd Mulso suche an vnreasonable fyne as he demaundeth whych amountyth nygh asmoche as the sayd landes and tenementes be worth clyerly to be solde<sup>8</sup> the sayd Mulso hath not all onely wrongfully sequesterd your said oratour from the proffettes of the sayd landes and tenementes but in lyke maner the sayd Mulso dothe vnreasonably handyll all hys other tenauntes of hys sayd manour and takyth fynes of theym after hys owne pleasure ageynst all reason equitye and good conscyence Moreouer most gracyous lorde where by iudgement gyven the fyrst day of July in the ix yere of the Reign of Henry the vij<sup>9</sup> of famous memory your noble father whose sowl Ihesu pardon in the sterre Chambre it doth playnly appyere that in a matter of varyance dependynge in the sayd courte<sup>10</sup> betwene the tenauntes and Inhabytantes of the towne and lordeship of Thynden in the countye of Northampton aforesayd on the one partye and the sayd John Mulso on the other partye of and ypon certeyn enclosures newly erect and sett vppe by the same John Mulso vpon a comon grownde and pasture lyenge in the fylde of the sayd towne It was adiudgyd and decreed that the sayd John Mulso shuld throwe downe and avoyde the sayd enclosures from the sayd comon grownde and pasture so that the sayd tenauntes myght peasibly enjoy the occupacion of the sayd common as they and theyre Auncetours dyd afore the said enclosures made whyche comon grownde and pasture by vertue of the same decree Hath remaigned comon to the great proffytt ease and commodyte aswell of your sayd oratour as of all other tenauntes of the sayd Mulso of hys sayd lordeship of Thynden tyll nowe of late the sayd Mulso entendencyng crelly<sup>11</sup> to vexe trowble and oppresse your sayd poore

<sup>8</sup> About twenty years' purchase was the general value of land during the latter half of the fifteenth and the first quarter of the sixteenth century (J. E. T. Rogers, 'Hist. of Ag. and Prices,' iv. 738). After this it probably rose slightly, only to fall back to the former level after the dissolution of the monasteries. In 1538 Richard Gresham offered that rate for lands in Norfolk (L. and P. xiii. i. 1453) and in Yorkshire (ib. xiii. ii. 671). See also Acts of the

Privy Council, ii. 382 (1550). Twenty years' purchase of 5s. 3½d. is 5l. 10s. 10d., whereas Mulso's demand was 30s. Selby is, therefore, guilty of a gross exaggeration.

<sup>9</sup> 1494.

<sup>10</sup> This is a common form in judgements of this date, so that it may be inferred that Selby is here quoting the original.

<sup>11</sup> Presumably for 'eruelly,' but no such form is given in Murray's 'Engl. Diet.'

oratour and hys other tenauntes there hath vnlawfully enclosyd vppe ageyn the sayd comon grownde and pasture And also other common grownde and pasture whyche was never enclosure afore and the same doth yet wrongfully kepe enclosed to the great hurt and detryment of your sayd poore oratour and hys other tenauntes aforesayd and to the great contempt of thys Honorable courte And besyde thys most gracyous soveraign lorde the sayd Mulso not contentyd with all theys Iniuries and wronges but myndynge vtterly to vndoo your sayd oratour the xxviij day of october in the xix yere of your most noble Reign<sup>12</sup> the sayd Mulso of hys extort power<sup>13</sup> and pure malyce accompayned with vij or eight other Ryottous persones to your sayd poore oratour vnknowne with force and Armys in most Ryottous wyse then and there with swordes and buklers speerys axys and hatchettes Ryottously enterd<sup>14</sup> into an acre of wood of your sayd besechars lyenge in thynnden aforesayd and there cutt downe and caryed away with theym as moche wood as ys woorth iiij powndes sterlynges to the most peryllous example to other lyke offendours if due punysshement be not had the soner for the Reformacion of the same In tender consyderacion wherof it may please your Hyghnes of your most habundant grace to graunte a wrytte of subpena to be dyrectyd to the sayd John Mulso commaundyng hym by the same to appyere afore your hyghnes and your most honorable cownsayle at the sterre chamber at Westminster at a certeyn day and vnder a certeyn payne by your grace to be lymytted to Answerre to the premyssees there to be orderd accordynge to Reason equitye and good conseyence and your sayd poore oratour shall dayly pray for the prosperyte of your most Royall astate longe to endure.

(Signed) Thomas Ryshton.<sup>15</sup>

Plegii de } Johannes Gray de London yoman  
prosequendo } Ricardus Smyth de London yoman<sup>16</sup>

<sup>12</sup> 1527. <sup>13</sup> See E, p. 17, n. 15 supra.

<sup>14</sup> 'That which was principally aimed at in the Act ("Pro Camera Stellata") was Force, and the two cheife supports of Force, Combination of multitudes, and Maintenance or Headship of Great Persons.' (F. Bacon, Viscount St. Alban, 'The Historie of the Raigne of King Henry the Seventh' [ed. 1622] p. 64). This allegation was introduced by Selby, whether true or not, to justify recourse to the Star Chamber. On the Star Chamber and riot see Select Cases (1902), p. liii.

<sup>15</sup> Thomas Ryshton, counsel for the plaintiff. There were in Lancashire several families of this name and its variants, Ruston and Riston; but I have not been

able to find any connexion with them. Being one of the Prenotaries or Protonotaries of the Sheriff's Court of London, Ryshton was admitted to Lincoln's Inn on February 24, 1515, at the instance of Thomas More, afterwards the celebrated Chancellor, then Reader ('Lincoln's Inn Admission Register,' i. 36; 'Black Books,' i. 176). His official position in the service of the Corporation of London he retained to his death, for his will was proved as of 'Yelde Hall (Guildhall), London.' A correspondent of Cromwell, writing from Hampton on August 2, 1533, says: 'I have bound myself that my neighbour Sampson Thomas shall abide the decision of you and Mr. Russhton, of Yeldhall' (L. and P. vi. 932). In January,



*Indorsed.* Browght in by my Lord Brudenells Clarke xvj<sup>o</sup>  
Nouembris.

Coram domino Rege et Consilio suo apud Westmonas-  
terium in Octabis sancti Hillarii proxime futuris.<sup>17</sup>

Hillarii xix<sup>mo</sup> H. viij.<sup>18</sup>

Selby contra Moulsho

Thyngden.

1535, he was nominated one of the commissioners for the City of London, Cromwell being another, to inquire into ecclesiastical revenues (ib. viii. 149, 42). He must by this time have amassed considerable wealth, for he was this year assessed for the subsidy at £1000 (ib. 478). From a letter of Richard Pollard to Cromwell of August 18 of the same year, it may be inferred that with two other lawyers, Ryshton ('Rusheton') was empowered to confer with the ecclesiastical lawyers on the adjustment of ecclesiastical claims to those of the newly declared royal supremacy (ib. ix. 119). His name (Thomas Rusheton) is to be found on a list of those to whom the king in 1536 owed 'greater sums to be paid forthwith' (ib. x. 1419, iii.). He was nominated (as 'Thomas Russheton') on December 4, 1538, a special commissioner for Middlesex to receive indictments against Sir Geoffrey Pole, Sir Edward Nevill, and others for high treason (ib. xiii. ii. 986, 24). His house in London was in the parish of 'St. Benet in Fynk' (ib. xix. i. 1035, 55). He was called serjeant (as Thomas Rushedon) in 1540 (E. Foss, 'Lives of the Judges,' v. 102). His will was proved in 1543 in the name of Thomas Rishton, serjeant-at-lawe, Yelde Hall, London; Essex; Herts.; Surrey.' (J. C. C. Smith, 'Index to Canterbury Wills.') As he does not appear to have been placed upon the Commission of the Peace for any of these counties, and his name is not to be found in their histories, his property in each was probably insignificant. His signature is appended here as of the draughtsman of the bill of complaint. An order in Chancery as early as the reign of Henry 5 lays down 'Quod nullus scribens ad sigillum primum processum (videlicet) breve de subpoena ad comparandum conficiat et ad sigillum producat priusquam billam cum manu unius Consiliariorum barram Cancellarie frequentancium recipiat et in filum cancellarie imponat.' (G. W. Sanders, 'Chancery Orders' [1845], 7. d.) Hudson, the historian of the Star Chamber, appears to derive this practice from the Chancery. The bill, he says, 'must also be subscribed under the hand of some learned counsel, which . . . were ever in antient times appointed by the lord chancellor in every cause, and their James entered upon record, which was done

to the end that frivolous suits might not be common, and that legal form might be used by able and considerate men,' &c. ('Of the Court of Star Chamber,' 'Collectanea Juridica,' ii. 150.)

<sup>16</sup> Hudson omits any reference to giving security to prosecute a complaint. Blackstone gives the forms of the Common Law writs: 'If Richard Smith shall give you (the sheriff) security of prosecuting his claim,' &c. ('Commentaries,' iii. ; Append. ii. p. vii.) But I have only once before noted pledges for prosecution in the Star Chamber. That was in Butlond and others *v.* Austen and others, a case against the Founders' Company of London, tried in 1507. At the foot of the bill of complaint is 'Plegii de prosequendo Johannes Roo de London yoman et Willelmus Doo de eadem yoman' ('Select Cases in the Star Chamber' [1902], p. 265). The names of the pledges in this last case prove that, as Blackstone says of the Common Law writs, 'The whole of it (the security to be given by the Plaintiff for prosecuting his claim) is at present become a mere matter of form; and John Doe and Richard Roe are always returned as the standing pledges for this purpose. The antient use of them was to answer for the Plaintiff; who in case he brought an action without cause, or failed in the prosecution of it when brought, was liable to an amercement from the Crown for raising a false accusation' ('Comment.' iii. 275). The defendant, on the other hand, according to Hudson, was, 'after answer and examination in antient times,' called upon to find sureties to appear when commanded ('Of the Court of Star Chamber,' p. 179.) This proposition may be inferred from these cases to be too broadly stated, and the disuse of it in Hudson's time serves to shew that it was probably only enforced upon occasion. The practice of ordering plegii de prosequendo in Chancery has been traced back to 1385 ('Select Cases in Chancery' [Selden Society, 1896], case 1), and was made incident to the issue of a writ of Subpoena by a Statute of 1437 (15 Hen. 6, c. 4).

<sup>17</sup> January 20, 1528.

<sup>18</sup> Hilary Term, 1528, began on January 23, and ended on February 12. J.J. Bond, 'Handy-book of Dates' (1889), p. 174.



G. iij<sup>1</sup> The Answer of John Mulsho Esquier to the Bill of compleynthe of Henry Selby.

1528 The saide John Mulsho seythe that the saide Bill of Compleynthe is Incerten and Insufficient to be answeyrd vnto<sup>2</sup> and the more parte therof vntrew and the maters therin contenyd is Slaunderusly contriuid by the saide Henry feynynd of Malles to putt the saide John to costes vexacion and trouble now in His grete age and Impotence<sup>3</sup> the Aduantage of all the premissis to him sauid for the declaracion of the trowgthe the saide John saythe as to the force and Armes Riotes and other Mysdemeners Surmysyd in the saide Bill by him to be doon agaynste the kynges peace he is therof and of euery parte of the same not gyltie and as to the entre into the saide Acre of woode and cutting dovne of the same the saide John saythe it is mater determinable at the common lawe and not in this courte<sup>4</sup> wherunto he praythe to be Remyttyd And further the saide John Mulsho saythe that the saide John Selby was seasyd of the saide Mese and xvj Acres of londe and helde the same of Jamis Starkey and other then being Seasid of the saide Maner of Thingdon to the vse of the saide John Mulsho by copy of courte Roule at the will of the saide Jamis and other<sup>5</sup> then being lordes of the saide Maner to the vse aforesaide Accordyng to the custom of the same Maner and so being Seasyd at a courte holden at Thineden<sup>6</sup> aforesaide the x<sup>th</sup> day of September the xv<sup>th</sup> yere of Kyng Henry the vij<sup>th</sup><sup>7</sup> the same John Selby by Henry Broke then being desiner<sup>8</sup> there surrenderyd into the lordes handes there the same Mese and londe by the name of A Mese and yerd lond<sup>9</sup> to the vse of the same John Selby and Margery then his wyffe to haue to the same John and

<sup>1</sup> S.C.P. Hen. 8. xxxii. 70 and see F, n. 1 supra.

<sup>2</sup> On these demurrers, see 'Select Cases in the Star Chamber' (1902), pp. xxix, xxx.

<sup>3</sup> Assuming John Mulsho to have been twenty-one years of age when he entered into possession of the estate in 1478, he would in 1528 be seventy-one.

<sup>4</sup> The Act of 1453 (31 Hen. 6, c. 2), which was the parent of the Act 'pro Camera Stellata' (3 Hen. 7, c. 1), contained a proviso that matters determinable by law should not be withdrawn from the king's Courts. This was a concession to a long series of attempts by the House of Commons to restrict by statute the jurisdiction of the Council, and had in principle been accepted by the Council as early as 1426, when it passed an ordinance 'that all the Billes that comprehend matiers terminable

atte the Common Lawe be remitted there to be determined.' See further upon this, 'Select Cases in the Star Chamber' (1902), pp. lix, lxxxj.

<sup>5</sup> See E, p. 16, n. 4 supra; also Appendix, p. 314, n. 3.

<sup>6</sup> A form transitional towards the modern corruption 'Finedon.'

<sup>7</sup> 1499.

<sup>8</sup> Henry Broke made a deposition as to this in 1535. See Append. p. 330. As to 'desiner,' see Abbot of Peterborough v. Power and others, p. 123, n. 6.

<sup>9</sup> The designation in E was 'a mese, a close and dimidiata yeerd land.' In U it is 'A mese and halff yard lond and a close' (p. 59); 'A mese and a yard and a halff of land' (p. 67); and 'A mese and a yerd land and a halff' (p. 67).

Margery at the will of the lordes there after the custom of the saide Maner <sup>10</sup> and for the fyne of xxvjs. viij*d*. then payde the same John and Margery were Amyttyd <sup>11</sup> tenauntes to the same and did ther feoltye.<sup>12</sup> And after the same John Selby dyed after whose dethe the same Margery him ouerlynnyd and yet is in plene<sup>13</sup> lyfe And the saide Henry Selby without the assent and Agrement of the saide Margery and not being Admyttyd tenaunte in the courte there or paying any fyne to the lorde of the saide Maner hathe of his owne auctoryte and wronge enteryd into the premissis contrary to the custom there and all Ryght and good concience the saide John Mulsho <sup>14</sup> as well in the Ryght of the same Margery as also for that that the same Henry hathe not offerde ne payde no Reasonable fyne for the same ne orderyd him selfe in the hauying of the same Accordyng to the custom of the saide Maner the saide John Mulsho by the Assent and sufferance of suche persones as then were Seasyd of the saide Maner <sup>15</sup> to the vse of the same John Mulsho Hathe sequestryd the proffettes of the same as well and lawfull it was and is for hym to doo without that that the saide John Selby dyed seasyd of the saide Mease and londes specifide in the saide Bill and the same descendid to the saide Henry in Maner and forme as is surmyttyd in the saide Bill or that any suche presentment was made by the othe of the xij men as is Surmyttyd in the saide Bill or that ther is any suche custom at Thinden aforesaide that the tenauntes there shuld pay for ther fyne only the value of the chefe Rente of on yere in Maner and forme as is surmyttyd in the saide Bill and without that that the saide Henry offeryd to the saide John Mulsho accordyng to the saide custom any lawfull or Reasonable fyne or that the saide John Mulsho Requiryd any onreasonable fyne for the same or dothe onreasonably handyll other of his tenauntes there and takyth fynes of them ayenst all

<sup>10</sup> This was a settlement on the occasion of John Selby's marriage with his second wife.

<sup>11</sup> Another form of 'admitted,' from the Old French 'amettre' (J. A. H. Murray, 'Engl. Dict.' s.v. 'admit').

<sup>12</sup> 'He which is tenant at will according to the course of the common law shall not do fealty, because he hath not any sure estate. Put otherwise it is of tenant at will according to the custom of the manor; for that he is bound to do fealty to his lord for two causes. The one is by reason of the custome, and the other is, for that he taketh his estate in such form to do his lord fealty.'—'Littleton on Tenures,' § 132 (Coke's translation). Coke, commenting on

Littleton, § 91, says: 'The fealtie of him that holdeth in villenage differeth from the fealtie of the freeholder. For the villeine holding his right hand upon the booke shall say thus to his lord: "Hear you, my lord A. that I A. B. from this day forward shall be to you true and faithfull, and shall owe you fealtie for the land that I hold of you in villenage, and shall be justified by you in bodie and goods, so help me God," &c.'

<sup>13</sup> full.

<sup>14</sup> Carelessly draughted, this protasis being repeated a few lines below.

<sup>15</sup> The feoffees to uses, probably enfeoffed on Mulsho's father's marriage.

Reason equite and good concyence in Maner and forme as is surmyttyd in the saide Bill and as to the saide decre Specyfyde in the saide Bill the saide John Mulsho saythe that sythe the same decre hadd and made that is to saye the xxvij<sup>th</sup> day of Nouember the xj<sup>th</sup> yere of the Reign of the saide late kyng Henry the vij<sup>th</sup> <sup>16</sup> the same decre vpon good consideracions in the saide Sterre chamber was dysoluyd and the foresaide John Mulsho of the same and of all Iniuncions to him gyffyn consernyng the same clerely dischargid as more playnly apperyth by the Recordes Remaynyng in the same courte <sup>17</sup> and further the saide John Mulsho saythe that the vij<sup>th</sup> daye of Nouember the Secunde yere of our soueraing lord kyng Henry the viij<sup>th</sup> <sup>18</sup> in the ster chamber it dothe appere that in a mater of varyance dependyng betwene William Daye and John Sutton <sup>19</sup> in the name of the Inhabitantes of the saide Towne of Thineden of the on partie and the saide John Mulsho on the other partie vpon certen Inclosures there supposyd to be newly made by the saide John Mulsho it was then and there adiuggyd and decrede by the kynges most Honorabull counsell <sup>20</sup> that the saide John Mulsho and his heires for euer shulde Inioye all and synguler closis and feldes closyd there by the same John Mulsho and that the Inhabitantes and tenauntes of the saide towne of Thinden nor ther heires shuld clayme no common of pasture in the same but of all common of pasture in the saide closis and feldes clerely for euer to be excludid before as well of whych decre as of the lawes of this Realme the saide John Mulsho Hathe kepte and yet dothe kepe the saide closis and pastures then by him Made and erectyd seuerall as lawfull it was and is for hym to doo without that the saide pasture hathe Remaynyd in common euer sythe the saide decre Specifide in the

<sup>16</sup> 1495.

<sup>17</sup> See Introduction, p. lxi.

<sup>18</sup> 1510.

<sup>19</sup> This appears to be a misreading for Boughton, which is the name in the decrec. See C, p. 9 supra, or perhaps Busseton, a name which only occurs in A, p. 6.

<sup>20</sup> It is to be observed that though, at any rate in the reign of James I, the full designation of the process of the Star Chamber was 'Coram Domino Rege in Camera stellata coram Consilio ibidem,' the decrecs ran not in the name of the king, but in the name of the Council. See the exemplification of the judgement in the Abbot of Shrewsbury's case. ('Select Cases in the Star Chamber' [1902], p. 188, n. 12.) But the straining of prerogative which took place under James I would appear to

have introduced a change both in the practice and the theory. Hudson, writing of James I's revival of the early Tudor practice of sitting to hear causes in person, says: 'So in the presence of his great majesty. . . they (the judges) not having any power to pronounce any sentence in this court, for the judgment is the king's only,' &c. And, speaking of 'that great cause of the countess of Exeter against Sir Thomas Lake, where his majesty during the dignity of that court (sic), sat five continual days in a chair of state elevated above the table about which his lords sat, and after that long and patient hearing, and the opinions particularly given of his great council, he pronounced a sentence,' &c. ('Of the Star Chamber,' in 'Collect. Jurid.' II. 8, 9.) As to this see Introd. pp. xi, xii.



saide Bill was made in Maner and forme as is surmyttyd in the saide Bill or that the saide John Mulsho hathe onlawfully Inclosyd the saide closis and pastures or any other common grounde or pasture within the saide towne of Thinden in contempte of this courte and contrary to the lawes of the Realme without that that any other thing Materiall contenyd in the saide Bill not answeyrd trauercyde confessyd and auoydyd is trewe all whych matters the said John Mulsho is Redy to proue as this courte will Awarde and praythe to be dismyssyd out of the same with his Reasonable costes and dammages for his wrongfull vexacion and trouble in this behalfe sustenyd.

*Indorsed*: Selby contra Mulsho.

Thingden.

H.

Henricus octauus dei gracia Anglie et Francie Rex fidei defensor 1528  
et Dominus Hibernie Dilectis et fidelibus suis Roberto Brudenell Militi<sup>1</sup>  
Capitali Justiciario nostro de communi Banco Johanni Mordaunt  
Militi<sup>2</sup> Johanni Saynt John Militi<sup>3</sup> et Thome Tresham Militi

<sup>1</sup> S.C.P. Hen. 8, xxxii. 70, and see A p. 6, n. 3 supra. The date of Brudenell's knighthood appears to be unknown.

<sup>2</sup> Sir John Mordaunt, or Mordaunte, son and heir of Sir John Mordaunt, Speaker of the House of Commons, by Edith, daughter of Sir Nicholas Latimer, of Duntish, Dorset. He inherited from his father the manor of Turvey, Bedfordshire; was sheriff of Beds and Bucks in 1509; knighted in 1520; a Privy Councillor in 1526; and was created a baron in 1529 with the title of Lord Mordaunt of Turvey. He belonged to the conservative party in matters of religion, but he accommodated himself to the successive changes of policy under Henry 8, Edward 6, and Mary. He died in 1561. It is worth recording that he was the junior baron at the trial of William Dacre, Lord Dacre of Greystock, for high treason, in 1534, and had the courage to return the first vote of 'Not Guilty.' (P. Friedmann, 'Anne Boleyn' [1884], ii. 12.) He married about 1507 Elizabeth, daughter and co-heir of Sir Henry Vere, of Drayton, Northants, by Isabella, daughter of Thomas Tresham of Sywell, Northants, which remotely connected him with his fellow-commissioner of this name. His son and heir, John, second lord Mordaunt, born in 1508, followed his father's political and religious opinions, and became a benefactor to Brasenose College, Oxford, which was founded as a bulwark of conservative ecclesiasticism. (G. E. C., 'Complete Peerage'; 'Brasenose College Quater-Centenary Monographs' [1909], iv. 18).

<sup>3</sup> Sir John Saynt John or St. John of Bletshoe, or Bletso, Bedfordshire, son and heir of Sir John St. John of Bletshoe, by Alice, daughter of Thomas Bradshaw, of Haugh, Lancashire. ('Visitation of Co. Huntingdon' [Camden Society, xliii. 2]). The grandmother of this second Sir John St. John, Margaret, daughter and heir of John Beauchamp of Bletshoe, had married as her second husband John Beaufort, first Duke of Somerset, and by him had a daughter, Margaret Beaufort, afterwards Countess of Richmond and mother of Henry 7. In this way Sir John St. John and Henry 8 were connected. Sir John St. John, the second, married Margaret, daughter of Sir William Waldegrave, of Smalbridge, Suffolk. (G. E. C., 'Complete Peerage,' sub 'St. John.') Sir John St. John, the father, died in 1525. His will, dated March 22, was proved in 1525. (J. C. C. Smith, 'Index to Canterbury Wills'; N. H. Nicolas, 'Testamenta Vetusta' [1826], ii. 612.) The son appears as a knight in November 1526, when he was on the list for sheriff of Beds and Bucks as Sir John Seynt John, but was not pricked. (L. and P. Hen. 8, iv. 2672.) His name was placed on the Commission of the Peace for Huntingdonshire on December 6, 1528 (ib. 5083, 6), and in subsequent years (ib. v. 119, 10, &c.). He was pricked Sheriff of Beds and Bucks in November 1529 (ib. iv. 6072, 9), and again in November 1534 (ib. vii. 1498, 13). Together with Sir John Mordaunt (Mordaunte) and others, he was nominated a

commissioner of jail delivery for Huntingdon Castle on June 20, 1530 (ib. 6490, 20), and on November 24 following upon the Commission of the Peace for Bedfordshire (ib. 6751, 24); as also in subsequent years (ib. v. 909, 9, &c.). At the coronation of Anne Boleyn, on June 1, 1533, St. John's name heads the list of knights and gentlemen appointed to act as 'servitors' (ib. vi. 562, i. ii.). When the musters were taken for the suppression of the Northern rebellion of 1536, St. John was ordered, as representing Bedfordshire, to furnish 100 men (ib. xi. 580), and 'to attend on the king's own person' (ib.). It seems that he and his contingent, with those of Bucks and Northants, were among the first to march to the front (Sir W. Poulet and Sir W. Kyngston to the Lords of the Council, October 23, 1536; ib. 844). He was in Lincolnshire on November 3, taking the examinations of captured rebels (ib. 972), and seems to have acted as a principal officer under the Duke of Suffolk (ib. 1018, 1103), who commanded one of the two divisions of the king's forces. But though active against rebellion, St. John was, according to Sir Francis Bryan, a fellow-commander, 'a man of gentle nature' (Sir F. Bryan to Cromwell, October 2, 1537, ib. xii. ii. 810). St. John obtained a lease of the dissolved abbey of Bushmead, in Eaton Socon, doubtless a reward for his services, on May 2, 1537 (ib. 796, 18). He was present at Hampton Court at the christening of Prince Edward, afterwards Edward VI., on October 15 following (ib. 911, ii.), and on November 12 formed one of the escort of the funeral car which accompanied the corpse of Queen Jane Seymour to the interment at Windsor (ib. 1060, p. 374). In December he was suspected of being one of a band of thirty persons who killed the deer in Lord Mountjoy's park at Apethorpe, Northants (ib. 1236, 1297). This so incensed the king as to necessitate the intercession of Cromwell in his behalf (ib. 1151, i. ii.), the more so that similar raids had been going on in Sussex about the same time. It has not hitherto been noticed by historians, to whom Henry's severity, four years later, against Thomas Fiennes, Lord Dacre, for a poaching expedition, ending in homicide, has seemed unaccountable, that Dacre had been involved in 1537 in just such another affray (see ib. 1169). The fate of Lord Dacre, whom it brought to the block in 1541, is proof that the felony of killing deer was a dangerous offence, even where homicide was not involved. Either through Cromwell's influence or because he succeeded in clearing himself, St. John escaped any consequences, and was again nominated on the Commission of the Peace for Hunts

on March 12, 1538 (ib. xiii. i. 646, 32). With Lord Mordaunt and two others, St. John was a commissioner of musters for Bedfordshire in the spring of 1539, when there were fears of a foreign invasion (ib. xiv. i. 652). His pains were rewarded by the grant, on May 4, 1539, of the post of Yeoman Forester of Fernyng Woods, Northants (ib. 1056, 14; cf. ib. xvi. 1057). This office he surrendered to Sir John Russell, Lord Russell, on June 3, 1544 (ib. xix. i. 812, 11). He was one of the knights nominated to attend Anne of Cleves on her arrival at the end of December, 1539 (ib. xiv. ii. 572, 3, viii., and xv. p. 5). On February 4, 1540, he was appointed a Commissioner of Assize for the Norfolk Circuit (ib. xv. 282, 6), and again in February 1541 (ib. xvi. 580, 18) and June 1542 (ib. xvii. 443, 24). He and William Fitzhugh, perhaps as joint feoffees to uses, purchased of the Crown on June 3, 1540, for £305 2s. 6½*d.*, the lordship and manor of Caisso, Beds, with other lands in Caisso and Parva Stoughton, Beds, which had belonged to the dissolved priory of Chiksand, Beds; and land in Pertenhall and Caisso, Beds, formerly belonging to the dissolved priory of Harwold, Beds (ib. xv. 831, 16). He further increased his landed estates on July 6, 1541, by purchasing from the Crown, partly by a payment of £468 10s., partly by the exchange of the rectory and lands of Paulespurye, alias Westpurye, Northants, the manors of Abbots Rypeton, Wenynghon and Esthorpe, Hunts, with the advowson of the rectory of Abbots Rypeton; the manor and advowson of Bolnehurst, and lands in Hosborne Crowley, Beds; the manor and rectory, &c. of Bonwylston alias Bolston, Glamorgan and the 'Pryours House,' &c., in 'Trynytye Lane, London,' which had belonged to the late priory of Marton, Surrey (ib. xvi. 1056, 26). The Abbots Rypeton property involved him in a litigation with the tenants (see 'Select Cases in the Court of Requests,' Selden Society, 1892, pp. 64-101). He appears to have alienated the Glamorgan estate in 1542 to a joint feoffee to uses (cf. ib. xix. 278, 76). The rest of his purchases of 1541 he alienated on February 8, 1543, to his son Oliver and Agnes his wife, daughter and heir-apparent of Sir Michael Fysshier and Margaret his wife (ib. xviii. i. 226, 19). This gives an approximate date for the marriage of Oliver St. John, first baron, which G. E. C. dates as 'before January, 1549,' being apparently a settlement upon marriage. That he was thought well of as a soldier is evident from the fact that he was with three others appointed upon the council of war of Sir John Wallop, captain-general of the army intended to act with the Imperial troops against the French



salutem.<sup>4</sup> Sciatis quod assignauimus vos quatuor tres vel duo vestrum ac dedimus vobis vel duobus vestrum plenam potestatem<sup>5</sup> et auctoritatem ad audiendum et examinandum viis et modis quibus melius sciueritis vel poteritis de et super quadam causa controuersie inter Henricum Selby querentem et Johannem Mulso Armigerum defendentem in billis hiis presentibus interclusis contenta et specificata et eandem causam iuxta sanas discreciones vestras si possitis finaliter determinandum partibus ad hoc vocatis Sin autem nos et consilium nostrum apud Westmonasterium in quindena Pasche proxime futura<sup>6</sup> de omni eo quod inde feceritis reddatis cerciores remittentes nobis tunc causam predictam unacum hoc breui. Et ideo vobis mandamus quod circa premissa diligenter intendatis ac ea faciatis et exequamini cum effectu. Teste me ipso apud Westmonasterium xxvij die Januarii anno regni nostri decimo nono.<sup>7</sup> JUDDE.<sup>8</sup>

in Flanders in the summer of 1543 (ib. 831). Towards this force he furnished a contingent of 100 foot (ib. 832). With Wallop in command, St. John accompanied the army which marched out of Calais on August 4 towards Boulogne, plundering and destroying as it advanced (ib. ii. 13). His signature is sixth in order to a dispatch to the king, dated August 13, giving an account of the operations (ib. 43; cf. 129, 187, and 267). He wintered abroad with the army, and a dispatch by Norfolk, then at its head, of July 4, 1544, bears his signature (ib. xix. i. 836). His name appears on the usual local commissions for 1544-45, but this is by no means proof that he had returned home. In February 1546, however, new commissions were issued 'for the survey of Chantries,' preparatory to their dissolution. Six commissioners were nominated for Beds and Bucks. Among them were John Longland, bishop of Lincoln, Henry Bradshawe, attorney-general, and St. John. As the bishop was also on commissions for at least five other counties, it is obvious that the bulk of the work of this commission must have been discharged by the four private members. From this it may be inferred that St. John had now returned home (ib. xxi. 302, 30). This is confirmed by the fact that he was also nominated, on May 16, 1546, a commissioner for Bedfordshire to assess the forced loan raised by Henry 8 (ib. 970, 32). Upon the occasion of the magnificent reception accorded to the French ambassador, Claude d'Annebaut, Admiral of France, in July of the same year, St. John, as one of the four knights representing Bedfordshire, was ordered to be present at Court (ib. p. 695). As his name does not appear in the State Papers, Domestic, of

Edward 6, I infer that he died early in that reign. He left Oliver St. John, his only son and heir, created, on January 13, 1559, baron St. John of Bletso (G. E. C., 'Complete Peerage').

<sup>4</sup> For Sir Thomas Tresham see Bareth *v.* Newby, p. 170, n. 11.

<sup>5</sup> The writ was called the writ of 'Dedimus potestatem,' 'whereby a commission is given to a private man for the speeding of some act appertaining to a judge, and it is granted most commonly upon suggestion that the party which is to do something before a judge or in court is so feeble that he cannot travel' (Cowel, 'Interpr.' s.v. 'Dedimus'). In the present case John Mulsho, the defendant, pleaded 'his grete age and Impotence' (G, p. 22 *supra*). Of commissioners under this writ Hudson says that they were customarily 'men of great worth in the county where the fact ariseth, and were antiently appointed by the Court' (Treatise of the Court of Star Chamber, 'Collect. Jurid.' ii. 202). The biographies here recorded confirm Hudson's statement.

<sup>6</sup> The fifteenth day of Easter, Easter Day being reckoned inclusively, *i.e.* fourteen days after Easter. In 1528 Easter Day was April 12, the quindene was, therefore, April 26.

<sup>7</sup> 1528.

<sup>8</sup> John Judde was an under-clerk of the Hanaper, an office of the Chancery. It is probable that he owed his appointment to Thomas Hall, the clerk of the Hanaper, to whom he was perhaps related, for on Hall's death in 1532 Judde appears to have interested himself in his widow and children (L. and P. v. 1214) and to have procured from Cromwell a remission of a debt to the



1528 I. v<sup>1</sup> The complayntes of think[abitauntes of the] Town of Thyngden ayenst John [Mulsho] of the same Town Squier.<sup>2</sup>

Fyrst the said Tenauntes complayn of the same John Mulsho for the Misvsyng of the copieholdes contrarye to the costom of his Manour in takyng of vnresonable fynes for the same.

Item they also complayn of certen Inclosures wheryn they ought to haue comen whiche the same John Mulsho haue taken of the comoners of the said town and inclosed the same contrarye to the kynges lawes.<sup>3</sup>

Crown of 150*l.* (ib. 1730). He was perhaps connected with Sir Andrew Judde, alderman of London and Lord Mayor in 1550 (see ib. p. 990), who was son of John Judde or Jude, of Tunbridge, Kent (Stow's 'Survey,' 6 ed. 1755, ii. 225). Like Sir Andrew, he appears to have belonged to Kent, if he may be identified with the 'John Judde of St. Pancrace, London, and Dertford, Kent,' whose will was proved in 1537 (J. C. C. Smith, 'Index to Canterbury Wills'). The will of Sir Andrew's father, John Judde, of Tunbridge, was proved in 1493 (ib.), so that the John Judde who was a joint-feoffee with him of lands in Cambridgeshire was not improbably the under-clerk of the Hanaper (L. and P. xiii. i. 1308, 20). He was closely attached to Wolsey, forming one of his suite on the occasion of the Cardinal's embassy to France in July 1527 (L. and P. iv. 3216). In the same year he acquired the manor of Howbery in the parish of Crayford, near Dartford, Kent (E. Hasted, 'History of Kent' [1778], i. 209). On the occasion of the surrender by Wolsey of the Great Seal to the dukes of Norfolk and Suffolk on 19 October 1529, Judde was present (L. and P. iv. 6025). He is described in a list of the expenses of the Chancery, dated September 29, 1531, as 'under-clerk of the Hanaper,' and recipient of a gift of 13*s.* 4*d.* 'for a winter gown' (L. and P. v. 445). In 1532 he was one of six joint-feoffees, among whom were 'William Sulyard, one of the king's councillors,' and 'Robert Wroth, attorney of the duchy of Lancaster,' both of whom figure in these pages, enfeoffed in fee on alienation by Henry Courtenay, marquis of Exeter, and Gertrude his wife of 'the manors of Edelmeton, Saysbury and Cautens, Middlesex' (ib. 1065, 28). A moiety of these estates on November 9 following they alienated to another body of six joint-feoffees, headed by Gardiner, bishop of Winchester, 'to the use of Balthazar de Guercii, surgeon to the Queen Consort,' Katharine of Aragon (ib. 1598, 3). On August 4 in the same year Judde writes to Cromwell from Berechurch, Essex, as to the

fees chargeable on grant of a perpetuity (ib. 1214; cf. ib. ix. 478), Cromwell now being clerk of the Hanaper and, therefore, his immediate superior. He was again present at the Court at Greenwich on January 26, 1533, when the king appointed Lord Keeper Audley Lord Chancellor (ib. vi. 73). Since Cromwell now enjoyed numerous other preferments, and in April 1533 had been made Chancellor of the Exchequer, Judde did the work of the office of the Hanaper as he had done under Hall (v. 1730) and accounted to him for the profits, which were considerable (ib. vi. 228, i.; ib. 841; cf. ib. xi. 135 &c.). In 1535, in a list of 'the names of the Aldermen and certain comoners of London,' John Judde is assessed at 1000*l.* (ib. viii. 478). He was perhaps a member of the Fishmongers' Company, if he was the John Judde, fishmonger of London, who in June 1536 was creditor upon a bond by statute staple for 200*l.*, a sum very unlikely to be due to an ordinary tradesman (ib. x. 1226). He was at this time (October 1536) living near Mortlake, doubtless to be near Cromwell, who had a house there (ib. xi. 573). The identification of him with the John Judde of Dartford, whose will was proved in 1537, as already mentioned, is confirmed by the fact that after October 1536 his name as living disappears from the Letters and Papers. According to Hasted (l. c.), he left a widow Elizabeth, who was in possession of the manor of Howbery as late as the 35th year of Elizabeth (November 17, 1592–November 16, 1593), in which case she must have died a very old woman.

<sup>1</sup> S.C.P. Hen. 8, xxxii. 70 and see F, p. 18, n. 1, *supra*.

<sup>2</sup> The date of this paper, as presently appears, is August 13, 1528.

<sup>3</sup> This allegation is justified, if the comoners were, at least some of them, freeholders, as is alleged in A (p. 6, *supra*), on whose behalf it was provided by the statute of Merton that they should have 'sufficient pasture' left them when inclosures were made by a lord. It was not till

Item Symkyn Walter oon of the said town complaynyth that the said Master Mulsho kepith from the said Symkyn a rode and the half of a half rode of medoue contrarye to all right.

Robert Tesedale	}	Apoyntyd for the Holle township.
William Dey thelder <sup>4</sup>		
John Rosemay		
Edmund Wales		
Edmund Petytt		
John Lythyn		
Henry Selby		

They complayn of the said Master Mulsho for inclosyng principally of vj closes.

Fyrst a close at turndyll crosse.<sup>5</sup>

Another next callyd priors corner.<sup>6</sup>

Another callyd the Mylle close.<sup>7</sup>

Another callyd Bull holme A medoue ground.<sup>8</sup>

Another callyd depedale.

Item a close at the west end of the town.

Item for ouercharyng of the comoners.<sup>9</sup>

the reign of Elizabeth that the statute of Merton was held to apply to copyholders. (See E. Coke, 'Complete Copyholder' [ed. 1673], § 53; C. J. Elton, 'Treatise on Commons' [1868], pp. 208-226.) The Acts in force touching inclosures were that of 1489 'agaynst pullyng doun of Tounes' (4 Hen. 7, c. 19), and an Act of November 1515 (7 Hen. 8, c. i.) aiming at the same mischief. The latter Act, it is true, provided that all lands turned to pasture since February 5, 1515, should be restored to tillage, but neither the destruction of houses nor inclosure of arable to pasture is alleged against John Mulsho (see Introd. p. lxxi). For the Acts and proclamations touching inclosures see 'The Domesday of Inclosures' (ed. I. S. Leadam [1897], i. 6-12).

<sup>1</sup> Presumably the petitioner of 1510. See C, p. 8, *supra*.

<sup>5</sup> Presumably the inclosure of three-quarters of a rood called Tryndull close in the judgement of 1510 (see C, p. 15, *supra*). Qu. whether this is the cross marked in the map as 'Queen Edith's cross,' S. of the Church (cf. *ib.* n. 21).

<sup>6</sup> Presumably the same as 'Priour is close' in C, p. 15, *supra*.

<sup>7</sup> Also noted as inclosed in 1510 (*ib.*).

<sup>8</sup> This and the two inclosures following are all noted as inclosed in 1510. But as all these inclosures are allowed by the judgement of that year, besides two others

as to which no complaint is now made, the present bill of 1528 is virtually a protest against the judgement of 1510, and the inference seems probable that it was due to a sense of Wolsey's activity against inclosers. See Introduction, pp. lxvi, lxxi.

<sup>9</sup> That is, with too many beasts, &c., pasturing. 'Though he (the lord) was the owner of the waste, he was obliged to conform to the rules as to its user.' . . . 'I shall never be of any other opinion than that this writ (admeasurement of pasture) will serve as well between lord and tenant as between neighbour and neighbour,' per Hengham, C.J. (Y. B., 32 Ed. 1 [Rolls Series], pp. 228, 9). As is said by Bereford, J., in this case, 'If the lord surcharge so that the tenant cannot have sufficient common, he disseises him' (*ib.* p. 234). The writ of admeasurement could be sued out by any one entitled to common appendant or appurtenant (W. Blackstone, 'Commentaries,' 2nd ed. 1768, iii. ch. 16; vol. iii. p. 238). It was directed to the sheriff to admeasure and apportion the common. 'And the rule for this admeasurement is generally understood to be that the commoner shall not turn more cattle upon the common than are sufficient to manure and stock the land to which the right of common is annexed; or, as our antient law expressed it, such cattle only as are *levant* and *couchant* upon his tene-



(On the dorse; in another hand.)

At Thingden the xiiij<sup>th</sup> day of Auguste anno Henrici viij<sup>i</sup> xx<sup>o</sup>.<sup>10</sup>

Memorandum that the forsaid partyes haue compremittyd them selffes to abide thaward in all causes bothe generall and particuler between them of sir Robert Brudenell and sir John Mordaunt knyghtes and Roger Wigeston Squyer.<sup>11</sup> So thair Awarde be made afore the last day of February next commyng.<sup>12</sup>

ment' (ib.). This is in consonance with Coke's rule, as decided in Terringham's case, 'that it shall be intended in respect of the continual usage of the common for beasts levant and couchant upon such land that at the beginning all was arable' (27 El. in Banco Regis, Sir T. Ireland's 'Abridgment of Coke's Reports' [1657], p. 133). Blackstone shews very clearly how rights of common necessarily arose out of the conditions of medieval agriculture: 'When lords of manors granted out parcels of land to tenants, for services either done or to be done, these tenants could not plough or manure the land without beasts; these beasts could not be sustained without pasture; and pasturo could not be had but in the lord's wastes and on the uninclosed fallow grounds of themselves and the other tenants. The law, therefore, annexed this right of common as inseparably incident to the grant of the lands, and this was the origin of common appendant' (Bk. II. ch. 3, vol. ii. p. 33. See also P. Vinogradoff, 'Villainage in England' [1892], p. 272; W. S. Holdsworth, 'Hist. of English Law,' iii. 122).

<sup>10</sup> 1528.

<sup>11</sup> This is the first time that Roger Wigeston's name has appeared, it having been substituted for that of Sir Thomas Tresham, for a reason stated in L. p. 35, infra, by a subsequent writ of *dedimus potestatem*, which has not been preserved. His appointment must have been favourably received by the tenants, seeing that with Dean John Veysey, and Sir Andrew Wyndesore, he had been in 1517 one of the three commissioners for inquiring into inclosures in Northamptonshire (L. and P. Hen. 8, ii. 3297). His name is spelt in a great variety of ways, as Wegeston, Wygeston, Wygston, Wigston, &c. Dugdale ('Warwickshire,' p. 27) says of him: 'Roger Wigston, descended from a family of the Wigstons in Leicester, divers whereof were merchants of the Staple. Which Roger (being a lawyer, I suppose, for he was steward to the monastery of Pinley in this county), by his will dated 34 Hen. 8 (1542) bequeathed his body to be buried in the Church of Wolston, having been sheriff of this county and Leicester-

shire in 33 Hen. 8, and in commission of the peace for divers years.' Dugdale's surmise was correct, for the Inner Temple Records (p. 30) shew that Roger Wygston was admitted 'to the masters' commons' at that Inn on July 4, 1514. Together with his brother (L. and P. i. 474), William Wigston or Wygeston of Leicester, junior, merchant of the Staple of Calais, Thomas Wigeston, clerk, and William Bolte, he received licence in 1511 to found a chantry in the Collegiate Church of St. Mary Newark, Leicester (L. and P. Hen. 8, i. 1672; cf. ib. iii. 2074, 12). In 1513 he joined in the foundation in Leicester of a hospital 'to be called the hospital of William Wygeston,' the name of his father (ib. 4345, 5578), who had in 1511-12 been mayor of Leicester (ib. 3209). These benefactions prove that the family must have been one of wealth (cf. ib. 5578). His earliest grant appears to have been that of joint receiver and surveyor of the lands, except in Norfolk and Suffolk, of William Beaumont, Viscount Beaumont, lately deceased without issue (ib. 2109, June 30, 1516). As a reward for his services on the Inquisition into Inclosures, he was granted on January 17, 9 Henry 8 (1518) a joint receivership-general of all possessions in the King's hands by the minority of heirs. Seeing the elastic notions of the duty of such trustees in those days, this must have been a post of great emolument (ib. II. ii. 3914; Nichols' 'Leicestershire,' i. 472). In 1522 he was returned to Parliament for the borough of Leicester. He was placed on the Commission of the Peace for Warwickshire on April 24, 1522, and in subsequent years (L. and P. iii. 2214, 24; v. 166, 44 &c.). He was appointed a commissioner to raise the subsidy in the same county in 1523 (ib. 3282, 3504; ib. iv. p. 237). On February 28, 1526, he was nominated on a commission of six, of which Sir John Mordaunte was one, to survey and report upon a number of royal manors in Northants and Essex (ib. 2000). This apparently led in the same year to the appointment of the two as surveyors of woods in all Crown lands (ib. App. 68). Hence he is called 'the King's servant'

<sup>12</sup> See page 32.



Item they be agrede, by the moeyons of the said Arbytours this mater hangyng in Arbitrament that the said Mulsho shall and

in a grant, dated May 18, 1527, of the moiety of the rents and profits forfeited under the Act 4 Hen. 7, c. 19 by the Knights Hospitallers at Fulbroke, Bucks, for permitting the destruction of houses and inclosure of arable to pasture (ib. 3142, 18). He obtained from the Crown on June 24, 1529, a lease of the site of the manor of Lighterne, Warwickshire, for twenty-one years (ib. 5815, 24). He was returned to the Parliament of 1529 for Coventry (ib. p. 2691), and was elected recorder of that town in the same year (Coventry Leet Book [1909], iii. 696). In 1530 he was a commissioner of jail delivery for Leicestershire and Warwick (L. and P. iv. 6490, 3, 20). Upon Wolsey's fall he was in the same year commissioned to make inquisition as to the Cardinal's possessions in Leicestershire (ib. 6516). He was also solicitor of the Staple of Calais, undoubtedly a lucrative office (ib. v. p. 752), perhaps through the influence of his brother William, a merchant of the Staple and lieutenant of Calais (ib. i. 1015). He is first named on the Commission of the Peace for Leicestershire in March 1531 (ib. v. 166, 10), a commission renewed in subsequent years (ib. xiv. i. 1056, 50). In the following May he was nominated a commissioner of jail delivery for both Warwick and Leicester (ib. 278, 16). In July 1534, and long after, his name appears as a member of the Council in the Marches of Wales with a salary of 5*l.* per annum (ib. vii. 1026, 28), but he does not seem to have lived at Ludlow, the seat of Government, for he writes to Cromwell on September 15 of that year, upon the subject of an inquiry into riots at Nuneaton and Cotton, which he and another had been ordered to investigate (ib. 1152), and in November from 'Wolston beside Coventry' (ib. 1460). He was subservient to Cromwell, desiring on September 21 to know his pleasure upon a vacancy in Parliament for the representation of Warwickshire, where 'seeret labour among the freeholders' was foreshadowing opposition to the official nominee. He at the same time requests 'the stewardship of the lordship of Knoll in this shire,' vacant by the death of the late member, Sir Edward Ferrers. As the place was only worth four nobles (26*s.* 8*d.*) yearly, Wigston was evidently 'a snapper up of unconsidered trifles' (ib. 1178). In 1536 he was one of six commissioners to inquire into and report upon the smaller religious houses in Warwickshire (ib. x. 1191, 2). From another inquiry about this time we learn that he was high steward of

the Collegiate Church of St. Mary, Warwick, for which office he received an annual fee (ib. 1259). He also enjoyed an annuity as steward of the priory of Pinley, in S. Warwickshire, of which his sister Margaret was prioress (T. W. Whitley, 'Parliamentary Representation of Coventry,' p. 37). He, together with his fellow commissioners, signed a letter to Cromwell, dated July 28, 1536, in favour of the retention of the monastery of Pollesworth, Warwickshire (ib. xi. 176). His name appears on a list of those in Warwickshire upon whom, it would seem, the Government relied for support against the Northern rebels of that year (ib. 580, 3). In this year, too, he was first placed on the Commission of the Peace for Staffordshire (ib. 1417, 3) and also for Salop (ib. 1417, 15), and in 1537 for Worcestershire (ib. xii. i. 539, 3), Gloucestershire (ib. ii. 1150, 34), and for Herefordshire (ib. xiii. i. 384, 18), Northants, Rutland, Derby, Lincolnshire, Oxon and Berks (ib. 1519, 13, 14) in 1538. It is probable that these numerous commissions were due to his office of surveyor of the King's woods and to his membership of the Council in the Marches of Wales. Never superior to small emoluments, he drew a small yearly fee from Kenilworth Abbey, which also owed him a debt of 30*l.*, as the accounts of the house shewed on its dissolution (ib. xiii. i. 764, ii. iii.). He, with the mayor and aldermen of Coventry, signed a request to Cromwell on September 20, 1538, to abstain from suppressing the Grey and White Friars in that town on the ground that their churches were resorted to by the sick in time of plague (ib. ii. 394). When the demolition of the Grey Friars' Church (now Christ Church) had begun, he signed another petition (October 20) in favour of the White Friars (ib. 650). Nevertheless, he seems to have favoured the suppression of the monasteries in general, and was commended to Cromwell by a leading commissioner, Dr. John London, who was entertained by him at his house, the parsonage, Colston, in 1539 (ib. xiv. i. 182). In February 1539, when foreign invasion, aided by disaffection at home, was feared, Wigston was nominated a commissioner of oyer and terminer for treasons on both the Oxford and Midland Circuits (ib. 403, 17), again in February 1540 (ib. xv. 282, 4, 7), and for Cheshire, for which he was already a magistrate (ib. xiv. i. 1354, 9), in May (ib. xv. 733, 63). His habit of accumulating small pensions again comes out in the 'Accounts of the Court of Augmentations' for this year, shewing that

may kepe his closes seuerall, Except thes three closes, Mylle close Depdale close and the close at the West Ende of the Town whiche iij closes to lye comon during the same tyme.<sup>13</sup>

Item, that euery particuler<sup>14</sup> may make his bill of Complaynt in writing and Delyuer the same to the forsaid sir Robert or sir John Mordaunt before the xx day of September next commyng.<sup>15</sup>

Thes men to be bounde to the arbytours for the Town of Thingden in the Somme of xxli.

William Dey thelder and }  
Richard Walter<sup>16</sup> } husbondmen.

J. iv.<sup>1</sup> Memorandum that in the mater betwyn Henry Selby of Thyngden and Margerye Bettes mother in law<sup>2</sup> to the saide Henrye.

Fyrst the said Margerye to have the Mese and the half yarde londe accordyng to the courte Rolle, and the iij<sup>de</sup> foote of all the Freehold<sup>3</sup> or

he was an annuitant of 'Coventry Cathedral' (ib. xvi. 28) and of the Abbey of St. Mary de Pratis, Leicester (ib. p. 29). In November 1541 he was pricked sheriff of Warwickshire and Leicestershire (ib. 1391, 67). A very interesting paper belonging to the year 1542 survives, giving instructions to Sir George Throgmorton and Roger Wigston as to the methods by which to raise a loan for the king, to be repaid in two years, from those persons in Warwickshire who should possess 50l. per annum in land or 100l. in goods (ib. xvii. 194). After the dissolution of Wolston Priory he obtained a grant of the manor and of the site, and there built a house of stone. (T. W. Whitley, 'Parliamentary Representation of the City of Coventry' [1894], p. 37. J. Nichols, 'Hist. of Leicestershire' [1795-1815] i. 471.) Though he sat for Coventry in the Parliament of 1536 (Whitley, p. 38), he did not do so in the Parliament of 1539, but was again returned for the Parliament which met on January 16, 1542 (ib. 39). 'During the sittings' (ib.), which ended on April 1, he died. His will was proved in the same year as of Roger Wygston, esquire, Colston, Warwick (J. C. C. Smith, 'Index to Canterbury Wills'). He married before 1520 Christiana, heir of John Langley (L. and P. iii. 1081) and of Edmund Langley of Sudington, Gloucestershire (ib. xiii. ii. 1247). By her he had a family of both sons and daughters, his sons and sons-in-law being, as Dr. John London attested, 'all in the king's service' (ib. xiv. i. 182). His son William was knighted by Queen Mary (Whitley, p. 37). He was, records Dr. London, 'much esteemed and

resorted to by the whole shire' (Warwickshire) (L. and P. xiv. i. 182). It must have been disappointing to the inhabitants of Thingden that he does not appear to have acted in this case, at any rate beyond agreeing with his colleagues in the provisional order as to the inclosures set out in the next paragraph.

<sup>12</sup> February 28, 1529. This and the preceding words are altered from 'Saint Hillary day next,' i.e. January 13.

<sup>13</sup> That is, from August 13, 1528, to February 28, 1529. In their defence (L. p. 36) the commissioners speak of this as keeping 'open certen gappys in the open tyme of the yere.'

<sup>14</sup> Individual.

<sup>15</sup> September 20, 1528.

<sup>16</sup> This is the first mention of this complainant's name.

<sup>1</sup> S.C.P. Hen. 8, xxxii. 70. See F, p. 18, n. 1, supra.

<sup>2</sup> This appears to be a mistake for step-mother. It is evident from G (pp. 22, 23) that John Selby, Henry Selby's father, married in 1499 as his second wife Margery, whose maiden surname was probably Bettes, since in these proceedings nothing is said of her husband, as would have been the case had she married again after John Selby's death. The words used in G are 'surrenderyd into the lordes handes there the same Mese and londe,' and only one mese is mentioned throughout. Moreover, the award here cites 'the courte Rolle,' the contents of which are set out in G.

<sup>3</sup> From this it would appear, though it has not been expressly stated, that Henry Selby, as son and heir of John Selby, was



the value in money <sup>4</sup> for the terme of her lif and after her decesse the same Mese and lond to com to the said Henrye accordyng to the costome.<sup>5</sup>

Item the said Henrye to haue the Crofte <sup>6</sup> callyd Grenes Crofte <sup>7</sup> accordyng to the custome <sup>8</sup> payng his fyne.

(Signed) Robert Brudenell  
John Mordaunt.

The complaynt of Henry Selby son and  
heire of John Selby.

Fyrst his said fader was seased of a Mese and xvj acres of lond custumarye and the same descendyd to hy as son and heire. And Master Mulsho his lond lord will not admytte hym Tenaunt without fynyng therfor at his will where the fyn shuld be but doble the Rent.<sup>9</sup>

Item they ley a decre made ayenst the said Mulsho anno ix<sup>o</sup> Henrici vij <sup>10</sup> for Inclosure to be open towchen a common pasture.

Item for cuttyng down of wod to the valour of iiij li.<sup>11</sup>

also a freeholder, so that his step-mother was a tenant in dower. 'Tenant in dower is where a man is seized of certaine lands or tenements in fee simple, fee taile general, or as heire in speciall taile, and taketh a wife, and dieth, the wife after the decease of her husband shall be endowed of the third part of such lands and tenements as were her husband's at any time during the coverture, to have and to hold to the same wife in severalty by metes and bounds for term of her life, whether she hath issue by her husband or no' ('Littleton on Tenures' [Coke's translation], § 36).

<sup>4</sup> 'If the wife be entitled to have dower of three acres of marsh, every one of the value of twelve pence, the heire by his industry and charge maketh it good meadow, every acre of the value of ten shillings, the wife shall have her dower according to the improved value and not according to the value as it was in her husband's time; for her title is to the quantitie of the land, viz. one just third part' ('Coke on Littleton,' § 36, f. 32, a).

<sup>5</sup> 'Copyhold estates are not liable to dower, being only estates at the lord's will; unless by the special custom of the manor, in which case it is usually called the widow's freebench' (W. Blackstone, 'Commentaries,' bk. ii. ch. 8, vol. ii. p. 132). In this case, however, Margery had been admitted joint-tenant with her husband, and therefore had the whole by survivorship. See J. Cowel, 'Interpr.' s.v. 'Joint-tenants.'

<sup>6</sup> 'Croft, croftum and crofta, is a little

Close or Pightle adjoining to a House, either for Pasture or Arable, as the Owner pleases. It seemeth to come of the old English Word Creaft, signifying Handy-craft; because such Grounds are for the most part manured, and extraordinarily dressed by the labour of and skill of the Owner' (ib.) Dr. Murray, however, gives 'enclosed field' as the meaning of the Old English word 'croft.' He observes that 'Ray, "N. C. Words," 133, notices that in the North it implied adjaeceny to a dwelling-house, but that this attribute did not attaeche to its general English use.' Cowel, however, was a Devonshire man, educated at Eton and King's College, Cambridge ('Diet. Nat. Biog.' sub Cowell, J.). It will be observed that the croft had not been surrendered by John Selby to the use of John and Margery at the court of the manor on September 10, 1499. See G, p. 22, supra.

<sup>7</sup> Thomas Mulsho, the plaintiff in U, p. 60, infra, calls this 'Grymes close.' If a French pronounciation be given to 'Grymes,' it is easy to see how it came to be confused with 'Grenes.'

<sup>8</sup> The commissioners are careful to abstain from prejudging the question of Ancient Demesne by inserting the words 'at the will of the lord.' See E, p. 16, n. 4.

<sup>9</sup> See Introduction, p. lxiv.

<sup>10</sup> July 1, 1494. See F, p. 19, supra.

<sup>11</sup> Complained of in E and F, pp. 17, 20, supra, having taken place on October 28, 1527. See E, p. 17, n. 16.



K. vj <sup>1</sup> Thynden in comitatu }  
Northampt modo vocatur }

<sup>2</sup>In libro de Domysday sub titulo terr(arum) Regis in Maleslett hundredo inter alia continetur sic videlicet.

Rex teñ Fixctone <sup>3</sup> Ibi sunt .ij<sup>e</sup>. hide. Terra est .xij. cañ In dñio sunt .iij. cañ et .vi. serui et .vj. ulfi et .ix. bord cum .iij. cañ Ibi xvj ač pti.

vij. <sup>1</sup> Vera Copia libri vocati Domissday Scripta per manus clarici de Treserario domini Regis. <sup>4</sup>

In libro de Domysday sub titulo terr(arum) Regis in hundredo de Maleslett inter alia continetur sic.

Rex teñ Fixctone Ibi sunt ij hide Terra est xij Cañ In dñio sunt iij Cañ et vj 3ui et vj vilti et ix bord cū tribz Cañ Ibi xvi ač pti.

Rex tenet Fixctone Ibi sūt due hide Terra est duodecim Carucañ In dominio sūt tres carucañ et sex 3ui et sex villani et nouem Bordarii cū tribz Carucañ Ibi sexdecim ač pti.

L. viij. <sup>1</sup> The answer of sir Robert Brudenell and sir John Mordaunte knyghtes to the byll of compleynt of Henry Selby of Thynden in the countie of Northampton put vppe to the kynges highnes. <sup>5</sup>

1529 The seid Robert and John seyen that the seid Henry is sklaunderus and a wylfull person and wyll not be ordered but after his owne wyll For they sey that troughe it ys that the moste Reuerend Father in god Thomas lord legate de latere and Chaunceller of Ingland directed the foreseid byll of compleynthe specified in the sklaunderus byll of the said Henry with the Hole recordys concernyng the same vppon a yere past or more <sup>6</sup> to vs and to sir John Seint John and sir Thomas Tresham kny3this <sup>7</sup> to examen the same and to reduce the parties to a reason-

<sup>1</sup> S.C.P. Hen. 8, xxxii. 70. See F, p. 18, n. 1, supra.

<sup>2</sup> These extracts from 'Domesday' were apparently put in as proof of the contention advanced by Henry Selby in E (p. 16) that Thingden was Ancient Domesne. 'It' ('Domesday') 'is worthily called "Liber Judicatorius," because it is the only triall of Ancient Domesne, against which, for the uncontrollable truth and verity thereof, there can be taken no averment. And therefore in that respect like the doome and judgement at doomes-day.' E. Coke, 4 Inst. 269. On this see further Introduction, pp. lxxxiv-lxxxv. A possible explanation of the fact that there are two extracts is suggested in Appendix, p. 329, n. 7.

<sup>3</sup> Domesday writes 'Fextone;' that is, the modern Faxton. See Introd. p. lxxxiv.

<sup>4</sup> An official copy.

<sup>5</sup> The complaint has not been preserved. It is not possible to say whether this description indicates a bill of complaint to the king in Council, or to the Court of Requests, in which, as shewn by the cases printed in the Selden Society's 'Select Cases in the Court of Requests' (1898), the king was generally addressed, or to the Star Chamber, which had issued the commission of the execution of which Selby complained. On the practice of addressing the king in a bill filed in the Star Chamber, notwithstanding the direction of the Act that the complaint be 'put to the seid Chancellor' (3 Hen. 7, c. 1), see 'Select Cases in the Star Chamber' (1902), pp. xv-xvii.

<sup>6</sup> Hilary Term.

<sup>7</sup> Interlined. In this last word and in the word ry3th (note 9) occurs the rare

able peas or els to make our certifficat of our doynge therin to the kynges highnes afore his most honorable counsell in the sterre chamber And sir Thomas Tresham knyghte wolde not medyll therin by cause he had maried the doughter of the seid John Mulsoo<sup>5</sup> and sir John Seynte John was then as we were informed with the kynges grace<sup>6</sup> Wherfor we the seid sir Robert and sir John Mordaunte for the ease of the seid Henry did rydde fyrst to Wellyngborowe to our costes and charges.<sup>7</sup> And there we had afore vs the foreseid John Mulsho and the seid Henry with other the tenauntes of Thynden aforeseid And we did rede afore them there our commission with the byllys of compleynthe with the reste of the Recorde concernyng the same. And amonges other ther the seid Henry compleyned that he had certen copie hold land descended to hym by his Father and that the seid John Mulsho wolde not admitte hym to the same and alsoo Felled grette trees growyng apon parte of the seid copie hold to the value of iiij li to whiche the seid John Mulsho made answer that the seid Henry wrongfully putte owte his mother<sup>8</sup> of a Mese and certen copie hold whiche she had taken with her seid husbond Father to the seid Henry and shewed vs his courte Rollys provyng the same whiche we dyd see and his seid Mother was alsoo afore us cleymyng the same And for asmuche as his seid Mother had ry3th<sup>9</sup> to that parte and was verye pore and nedye as it was seid wherefor we moved the seid Henry to suffer his seid Mother to occupie the same And the residue of the seid copie hold to haue to hym after the custome of the Maner. And then the seid Henry and other of his neigburs compleyned of the seid Mulsho to vs that he hathe taken excesse Fynes of them seying that they shold paye no Fyne but double theire Rentres,<sup>10</sup> and they seide that theire landes was Auncient demeane which the seid Mulsho vtterly denied<sup>11</sup> And forther by cause the seid tenauntes compleyned also that the seid Mulsho had inclosed vj or vij closes<sup>12</sup> wherin they

survival of the Anglo-Saxon ȝ. 'We find "gh" in olden English often represented by ȝ as in eȝte, wyȝt, myȝte, foȝte, broȝte. . . . The sound of this "gh" was originally that of the High Dutch "ch"' (Maetzner, 'An English Grammar,' translated by C. J. Greece (London, 1874), i. pt. i. § 1, p. 156). Another example occurs in 'Select Cases in the Star Chamber' (1902), p. 238.

<sup>5</sup> During the fifteenth and sixteenth centuries several intermarriages, besides this one, took place between the families of Tresham and Mulsho. See 'Northamptonshire Notes and Queries,' ii. 41, 46, 119, vi. 2.

<sup>6</sup> This was in August 1528, as we know from I, p. 30, supra. It suggests that St.

John had some place about the Court, and this, judging by the prominent part he took at Anne Boleyn's coronation, is probable. See H, p. 25, n. 3, supra.

<sup>7</sup> These would not be very serious. Mordaunt's seat at Turvey is about twelve miles, and Brudenell's, at Dene, something over sixteen miles to Wellingborough by road.

<sup>8</sup> Step-mother. See J, p. 32, n. 2, supra.

<sup>9</sup> See n. 4, supra. This and the four words following are interlined.

<sup>10</sup> See Introd. p. lxiv.

<sup>11</sup> See Introd. p. lxxxv.

<sup>12</sup> Six, according to the memorandum of the commissioners, I, p. 29, supra.

oughte to haue commen and were putte from the same by the seid Mulsho the seid sir John and I appoynted to mete at Thynden<sup>13</sup> to see the seid closes And in this and all other causes to here the compleynthe of the seid tenauntes and at our day appoynted we mette And at our thidder commyng and seying the seid closes we wylled and commaunded the seid Mulsho in the kynges name to kepe open certen gappys in the open tyme of the yere<sup>14</sup> and suffer the said tenauntes to haue theire commen in the seid closes as byfore that tyme they haue vsed to haue there And after went we to the churche there<sup>15</sup> and had afore us the seid tenauntes heryng theire seuerall compleyntes And dyuers of them compleyned of excesse Fynes whiche the seid Mulsho exacted of them seying that they shold double theire Rent And to paye no other Fyne by cause it was Auncient demeane And for asmuche as the triall therof most reste in the kynges Recordys in his receyte here at London<sup>16</sup> we dyd apoynte them there to mete ageyne at the vacacion of Cristmas last past<sup>17</sup> yf they wolde resorte to vs for a daye Syns which tyme we harde no more of them tyll nowe this terme at London<sup>18</sup> withoute that that we euer Favered the seid Mulsho in any cause or delayed the seid Henry or any of his Frendes For as we shall answer before god we favered the seid Henry and other the seid compleynauntes<sup>19</sup> as Farre as reason and conscyens wold then serue vs And for that that he hathe put vppe this sklaunderus byll ageynst vs to our soueraigne lord the kyng to whom we be sworne of his counsell<sup>20</sup>

<sup>13</sup> Thingden would be by road about 15½ miles from Mordaunt's seat at Turvey, and something under 15 miles from Sir Robert's at Dene.

<sup>14</sup> In the commissioners' memorandum, I. (p. 32, *supra*), the 'three closes Mylle close, Depdale close and the close at the West Ende of the Town' were 'to lye comon during the same tyme,' that is, 'this mater hangyng in Arbitrament' and that time was defined as from the date of the memorandum, 13 August 1528 to 28 February 1529, at the furthest (p. 30).

<sup>15</sup> Note the use of the Church, as commonly in the Middle Ages, for public purposes. Cp. p. 102. 'The Church stands prominently on a hill . . . and well deserves a visit, since it is architecturally one of the best in this part of Northamptonshire' (J. Murray, 'Hand-book to Northamptonshire' [1901], p. 176).

<sup>16</sup> Domesday Book was preserved in a chest in the Treasury of the Reeceit of the Exchequer at Westminster. A drawing of the Domesday Chest, now in the Public Record Office, is to be seen as frontispiece to H. Hall's 'Antiquities of the Exchequer' (1891).

<sup>17</sup> That is Christmas 1528.

<sup>18</sup> Apparently Hilary Term, for it may be inferred that the commissioners had not yet made their award, the question of Ancient Demesne not having been argued before them and the limit of time agreed upon, viz. February 28, not having expired.

<sup>19</sup> Introduction, p. lxvii.

<sup>20</sup> This is a suggestion that Selby has been guilty of the offence of *Seandalum Magnatum*. Upon this two questions arise. Were the two commissioners as Privy Counsellors 'magnates' within the statutes, and if so, would Selby's bill in the Star Chamber charging them with perversion of justice amount to *Seandalum Magnatum*? The statute of Westminster the First (1275), c. 34, runs: 'Forasmuch as there have been oftentimes found in the country devisors of tales, whereby discord, or occasion of discord, hath many times arisen between the king and his people, or great men of this realm, for the damage that hath and may thereof ensue, it is commanded that from henceforth none be so hardy to tell or publish any false news or tales, whereby discord, or occasion of discord, or slander may grow between the king and his people, or the



to thlentent to put vs owte of his gracious Faver to our vndoyng we pray this Honorable counsell to see for his ponysshment after your grette wysdoms whiche matter we the seid sir Robert and sir John be redie to aver as covrte shall awarde.

(Indorsed :) Thaunswere of the lorde<sup>21</sup> Brudenell and sir John Mordaunt.

great men of the realm' (Coke's translation in 2 Inst. 225). It appears to have been thought necessary in 1378 to specify the 'great men of the realm.' Accordingly the Act 2 Rich. 2, st. 1, c. 2, was passed, enumerating them as follows: 'Item, Of Devisors of false News, and of horrible and false Lyes, of Prelates, Dukes, Earls, Barons and other Nobles and Great Men of the realm and also of the Chaneellor, Treasurer, Clerk of the Privy Seal, Steward of the King's House, Justices of the one Bench or of the other, and of other Great Officers of the Realm, of Things which by the said Prelates, Lords, Nobles and Officers aforesaid were never spoken, done, nor thought, in great slander of the said Prelates, Lords, Nobles, and Officers . . . it is straitly defended upon grievous Pain . . . that from henceforth none be so hardy to devise, speak, or to tell any false News, Lyes, or other such false Things, of Prelates, Lords, and of other aforesaid, wherof Disoord or any Slander might rise within the same Realm; and he that doth the same shall ineur and have the Pain another time ordained thereof by the Statute of Westminster the First, which will, that he be taken and imprisoned till he have found him which was the first Author of the Tale.' This statute was re-enacted ten years later with the addition that when any such is taken and imprisoned, and cannot find him by whom the Speech be moved, . . . that he be punished by the advice of the Council' (12 Ric. 2, c. 11, 1388). It is clear that Brudenell, as a Justice of the Common Bench (Common Pleas), would be within this statute. But it is remarkable that Privy Counsellors are not among the privileged persons enumerated, and penal statutes, even in 1529, were construed strictly, though the Statute of Treasons may be taken as an exception. Blackstone, for instance, gives a case in 1547 upon Ed. 6, c. 12, providing that those convicted of stealing horses should not have benefit of clergy, which 'the judges conceived . . . did not extend to him that should steal but one horse' ('Commentaries,' Introd. § 3, vol. i. p. 88). On the other hand, if the words 'other Great Officers of the realm' did not include Privy Counsellors, it may be asked to whom they could be held to apply. Brudenell in his

answer elected to waive his own privilege as a Justice and to rank himself with Mordaunt as a Privy Counsellor. Assuming, however, that Privy Counsellors were included in the statutory privilege, there is the further question whether Selby's complaint, slanderous or untrue though it might be, fell within the statutes of Seandalum Magnatum. These statutes, says Coke, do 'not extend to all manner of false newes, or horrible and false scandals and lies, &c., for they extend onely to extrajudiciall slanders, &c. . . for it is a maxime in law "que home ne serra puny pur suer des briefes en court le roy, soit il a droit ou a tort," and the reason thereof is that men should not be deterred to take their remedy by due course of law . . . and so it is, that if in the Star Chamber a peere of the realme be charged with forgery, perjury, or the like; but if in the bill the plaintife chargeth him with felony, or any other offence not examinable in that Court, that slander is within these statutes, for that the plaintife pursueth not his charge in any judieiall course, seeing the court hath no jurisdiction of the same, and so hath it been adjudged' (2 Inst. 228). Tested by this criterion, it would seem that Selby's complaint was no Seandalum Magnatum, since the jurisdiction of the Star Chamber expressly included 'maintenance' by the statute 3 Hen. 7, c. 1 ('Pro Camera Stellata'), and partiality in such a case would be a form of it. The commissioners carefully abstain from making the charge explicitly, nor does it appear that the Star Chamber inflicted any punishment on Selby, as prayed by them, although, according to Hudson in § xi., 'Of Libelling, and scandalous words against Nobles,' the Star Chamber frequently inflicted punishment, and this where, as in the present case, the aggrieved persons were commoners. Hudson's examples go back as far as the reign of Henry 8, though in all the cases cited by him belonging to that reign the libel or slander was directed against lords of Parliament, spiritual or temporal. 'All actions,' he says, *de scandalis magnatum* 'are as properly to be sued in the Star Chamber as in any other Court' ('Collect. Juridica,' ii., p. 104).

<sup>21</sup> In the current usage of the day, still retained in Scotland, and not as a peer of the realm.

M.<sup>1</sup> To the kyng our soueraing Lorde.

1529 In Full humble wyse shewyth vnto your highnes your faythfull subiecte John Mulsho of Thingden in the countie of Norhamton Esquier that where the same John Mulsho was and is seasid of and in Fyue partes of the manor of Thingden in Thingden in the saide countie of Norhamton in eyghte partes to be deuydyd and of seuyne partes of the demeane londes of the same manor in viij partes to be deuydyd in his demeane as of Fee and so being therof seasyd sythe the xvij<sup>th</sup> yere of kyng Edward the Fourth<sup>2</sup> hath inhabytyd him selfe in the saide Towne of Thingden vsyng there grete husbondry sumtyme wyth Foure plowes and sumtyme wyth thre and wyth too at the leste<sup>3</sup> and yet doth, the saide John Mulsho being Lorde of the said manor as is beforesaide hauing no seuerall gresse<sup>4</sup> there to maynteyne his plowe bestes and carte bestes<sup>5</sup> and other his Bestes necessary and conueniente for the mayntenaunce there of the saide husbondry, In the Fourste yere of the Reingne of our souerang lorde kyng henry the vij<sup>th</sup> late kyng of Englund<sup>6</sup> the same John Mulsho lawfully improuid and inclosyd xxvj<sup>th</sup> acres of leye grounde in Thingden aforesaide being not earyd<sup>7</sup> many yeres before, and xiiij acres of earabull grounde All which areable grounde and Lease were parcell of the demeane of the saide manor belongyng to the saide John Mulsho with dykes and hedges quicke sett wyth oke asshe elme wyllowe sallowe maple crabtre and Thorne to the Intente he woulde haue increse of woode there for necessary Fewell<sup>8</sup> For his house because the sayde towne of Thingden is syx or seuyne myles From any Forreste or grete woode which inclosure was in seuerall closis

<sup>1</sup> Star Chamber Proceedings, Henry 8. bundle xxvi. no. 250.

<sup>2</sup> Mareh 4, 1477-March 3, 1478.

<sup>3</sup> See Introd. p. lxxv.

<sup>4</sup> Separate grass.

<sup>5</sup> That is, oxen and horses. In 'the Boke of Husbandrie,' by Sir Anthony Fitzherbert, which was first published in 1523, the author diseusses the question 'Whether is better a Plough of Horses, or a Plough of Oxen.' He coneludes: 'And therefore mesemeth, all thynges conseydered, the ploughe of oxen is much more profitable than the ploughe of horses' ('Certain Ancient Traets,' &c., 1767, p. 8). Cf. Walter of Henley (ed. E. Lamond, 1890), pp. 11, 45. That this was the opinion in Thingden is apparent from the distinction drawn by Mulsho between the two sorts of 'bestes.'

<sup>6</sup> August 22, 1485-August 21, 1486.

<sup>7</sup> Ploughed. 'Eared up by a plough' occurs in Harrison's 'England' (1587), i.

xxiv. (1877), i. 361. Walter of Henley has 'erybyll londe,' p. 43.

<sup>8</sup> This plea of fuel may have been to obscure the real object of the quicksetting, which, doubtless, was for inclosure. Fitzherbert says: 'If a housbande shall kepe cattel well to his profytte, he muste have seuerall closes and pastures to put his cattel in, the which wolde be wel quicke-setted, diehed, and hedged. . . .' 'And than hath he euery fyele in seueraltye' ('Ancient Traets' [1767], 'The Boke of Husbandrie,' pp. 70, 71). It may be suspected that Mulsho was a student of Fitzherbert, who says, under the chapter 'To get Settes and set them,' 'Let them (thy quyeksettes) be of whyte thorne and erab-tree, for they be best. . . . And if thou dwell in the playne countre, then mayste thou get bothe ashe, oke, and elme, for those wyll encrease inoche woode in short space' (ib.).



deuydyd and no house of husbondry by the same decayde<sup>9</sup> And the Frehoulders Tenautes and Inhabytautes of the saide towne not wythstandyng the saide Inclosure hadde and yet hathe sufficiente<sup>10</sup> common of pasture for all theire catell in the Reasedewe of the felde of Thingden aforesaide after rate and quantyte of their tenures<sup>11</sup> All which closis the saide John Musho<sup>12</sup> hathe peaseably kept in seueralte without lett or interrupcyon of any persone tyll nowe of late that by the senester labor of the tenautes at wyll and copyholders<sup>13</sup> of the saide John Musho<sup>12</sup> of Thingden aforesaide and other inhabytautes of the same towne made to Thomas Lord Cardynall, late Chaunceler of Englund<sup>14</sup> with oute dewe examynacyon therupon hadde who in the kynges name grauntyd a wrytte oute of the Chauncery<sup>15</sup> to Sir William Fitzwilliam knyghte then and nowe shryue of the saide countye of Norhamton<sup>15</sup> commaundyng him by the same to take the

<sup>9</sup> An important point in view of the charge brought against him in I that he 'inclosed the same contrary to the kynges lawes.' See p. 28, n. 3, *supra*.

<sup>10</sup> An allusion to the Statute of Merton without raising the point of its applicability to copyholders. See *ib.*

<sup>11</sup> See I, p. 29, n. 9, *supra*.

<sup>12</sup> *Sic.*

<sup>13</sup> 'There are divers diversities between tenant at will which is in by lease of his lessor by the course of common law and tenant according to the custome of the manor in forme aforesaid. For tenant at will according to the custome may have an estate of inheritance (as is aforesaid) at the will of the lord, according to the custome and usage of the manor' (Littleton, 'Tenures,' § 82 [Coke's translation]. Cf. also *ib.* § 68. See further as to this difference and its consequences ('Trans. R. Hist. Soc.' N.S. [1892], vi. 219, 220).

<sup>14</sup> Cardinal Wolsey. The word 'late,' and the mention of Sir William Fitzwilliam as 'then and now' sheriff disclose, within a few days, the date of this bill. Michaelmas Term was opened by Wolsey in state on October 9, 1529. Ten days later (October 19) the Cardinal delivered up the Great Seal. According to a Statute of 1472 (12 Ed. 4, c. 1) sheriffs were 'yearly chosen the morrow after the Feast Day of All Souls,' that is, November 3; but 'the King's Letters Patents whereby any sheriff is made do most commonly bear date the sixth day of November.' As a matter of fact the Signed Bill appointing Fitzwilliam was dated November 7, 1528. His term would at any rate expire with the first week of November 1529. The news of Wolsey's disgrace was doubtless common

property in London on October 20 of that year. But as the bill boldly challenges the late Chancellor's action, it cannot have been filed without consultation with Mulsho, and if his pathetic description of himself in the previous year as in 'grete age and impotence' were true (G, p. 22, *supra*) this probably took place at his own house in the country. It belongs, therefore, to the last week of October or the first week of November 1529.

<sup>15</sup> 'This Court is *officina justitiæ*, out of which all originall writs . . . go forth' (E. Coke, 4 Inst. 80). The Chancellor was the officer of the Council, and the early petitions of the Commons in Parliament associate him with the Council. The Council, as the earliest records shew, always concerned itself with cases of alleged oppression, where the complainants were likely to be left without redress by the operation of the Common Law, and the writ of subpœna issued by the Chancellor was its instrument of intervention, at any rate from the close of the fourteenth century. The Court of Star Chamber, conceiving itself as the Council, did not after the Statute 'Pro Camera Stellata' (3 Hen. 7, c. 1), depart from the customary forms of process. On the close association of the Chancellor with the Council see 'Select Cases in Chancery' (Selden Society, 1896), pp. xvi-xxi.

<sup>16</sup> Pricked sheriff, November 7, 1528 (L. and P. iv. 4914), and still in his year of office at the time of the filing of this bill. This was Sir William Fitzwilliam of Milton, Northants, and Gainspark Hall, Essex, Merchant Taylor and Alderman of London, who died in London on August 9, 1534, and was buried at Marham, North-



power of the saide countye with him<sup>17</sup> to throwe downe the said hedges and dyches aboute the said closes so made by the saide John mulsho<sup>18</sup> wythout calling the saide John Mulsho by any ordinary processe to make answer to the same<sup>19</sup> and withoute any Inquisicion or other mater of Recorde remayning in the saide courte of Chauncery or els where prouing the saide Inclosure to be contrary to any lawes or statutes of this Realme wherupon the saide Sir William Fitz william Shryne of the saide countye takyng with him the power of the same countye hathe throwne downe the saide hedges and dyches and dystroyde all the quicke of the same to the grete decaye of the husbandry of the saide John Mulsho and to his vtter vndoing. And forsomoch gracios soueraing lorde as the saide Inclosure was lawfully made and not contrary to no lawes ne statutes of this Realme<sup>20</sup> and now by vertu of the saide wrytte the hedges and dyches be throwne downe and the saide quicke dystroyd wythout calling the saide John Mulsho to any answer contrary to the order of justice Righte and good coneyce And the said John Mulsho now is lefte withoute any Inclosure or pasture for the mayntenaunce of his

ants. He was the son of John Fitzwilliam, of Green's Norton, and was thrice married. He left by his first wife Anne, daughter of Sir John Hawes, of London, a son of the same name, who married Anne, daughter of Sir Richard Sapcote, of Elton, Hunts, a name that appears in these pages (Bridges, ii. 517).

<sup>17</sup> This order was justified by the allegation of 'force and armys' employed by John Mulsho against the complainant Henry Selby in F, p. 20, supra. By a statute of 1411 (13 Hen. 4, c. 7) justices of the peace and sheriffs were commanded to arrest all rioters. The order to the sheriff to go accompanied by the posse or power of the county, where, as in this case, a riot might be anticipated, was preventive. Neglect to join the posse, when required by the sheriff or justices, was held a contempt of the king's prerogative, it being 'a duty incumbent upon all that are fifteen years of age, under the degree of nobility, and able to travel' (W. Lambard), 'Eirenarcha,' p. 315; W. Blackstone, 'Commentaries,' bk. iv. c. 9, vol. iv. p. 122). It is to be noted that the language of the statute 2 Hen. 5, st. 1, c. 8, which lays down more efficient rules for the intervention of the sheriffs and magistrates in case of riot, implies that the posse was mounted. 'And that the king's liege people, being sufficient to travel in the county where such Riots, Assemblies, or Riots be, shall be assistant to the Justices, Commissioners, Sheriff, or under-sheriff of the same county when they

shall be reasonably warned to ride ("pour chivaacher") with the said Justices, &c., in Aid to resist such Riots, Routs and Assemblies, upon pain of Imprisonment, and to make Fine and Ransom to the King.' Fitzwilliam would certainly have ridden, his seat of Milton, 2½ miles W. of Peterborough, being about 20 miles N.N.E. of Thingden.

<sup>18</sup> Unless Fitzwilliam shared with the Abbot of Croxston and the inhabitants of Thingden the dislike entertained by them for John Mulsho, this cannot have been a congenial task, seeing that in 1517 he had himself been returned to Chancery by the commissioners for inquiring into inclosures in respect of an inclosure in Castor, also in Northamptonshire, presumably made by his predecessor in title in 1495. This was an inclosure of forty-five acres of arable to pasture. He was also returned for having allowed two messuages at the same place to become ruined in 1500, for the purpose of consolidating farms, through which ten persons were evicted. This being a direct infraction of the Act of 1489, 'agaynst pulling down of Townes' (4 Hen. 7, c. 19), he was served with a subpoena to appear in Chancery, with what result is unknown ('Domesday of Inclosures' [ed. I. S. Leadam], 1897, i. 268, 269).

<sup>19</sup> See Introd. p. lxxi.

<sup>20</sup> This appears to be true. Both the statutes of 1487 and of 1515 contemplated inclosures attended by the decay of houses of husbandry.

husbondry<sup>21</sup> wherby he is lyke to decaye the sayde husbondry and household and the saide tenauntes and Inhabytauntes of the saide towne of Thingden not contentyd with the throwyng downe of the saide dykes and hedges and dystroying of the woode<sup>22</sup> the xvj<sup>th</sup> daye of Januarii laste paste Thomas knyghte of Thingden in the countye of Norhamton husbondman Henry Smyth of the same towne and countye husbondman Henry Sylby of the same towne and countye husbondman at Thingden aforesaid the said xvi<sup>th</sup> daye and yere aboue saide riotously assemblyd them selfe and with forse and armes hewe and cut vpp the yates<sup>23</sup> postes and spores<sup>24</sup> of the yates that belongyd to the saide closis wherof the saide hedges and dyches were throwne downe as is aforesaide. And after the shryue with the power of the sheyre were departyd from thens and hadd executyd and doone asmoche as the kynges wrytte had commuandyd them there to be doone Richard Walter of Thingden in the countie of Norhamton husbondman Edmund Walles,<sup>25</sup> John Rosime<sup>25</sup> William Makernes,<sup>25</sup> Thomas Makernes<sup>25</sup> William Whyteclarke the elder<sup>25</sup> Henry Smyth<sup>25</sup> John Walter<sup>25</sup> Edmund petite<sup>25</sup> William Daye the elder<sup>25</sup> William Daye the younger<sup>25</sup> with dyuers other Riotus persones to the number of thre score the xxv<sup>th</sup> daye of January laste past Riotusly assemblyd them selfe at thingden aforesaide with Forse and Armes<sup>26</sup> that is to saye with Bylles<sup>27</sup> hacchettes Clubbes<sup>28</sup> pykyd<sup>29</sup> staves pykeforkes shouelles and spades Riotusly dyggyd vpp the Rotes of all such wyllowes sallowes ashe tres and of all other tres which the saide John Mulsho hadd there sett for the Increse of wood necessary for fewell for his house and so dayly contynued Riotusly by the Space of

<sup>21</sup> See Introd. p. lxxvi.

<sup>22</sup> At a somewhat later date the Star Chamber, as a matter of public policy, set its face against the destruction of wood. Izaacke Cotton, who was appointed clerk of the Star Chamber in 1592, writing of its procedure says: 'Iniuncions for restrayning of the felling and dystroying of woodes are seldome denyed, For it is a publicum bonum and no hurt can be to whom the right shall fall' (Brit. Mus. Lansd. MS. 639, fo. 14).

<sup>23</sup> A dialect form of 'gate' common throughout mid-England from Lancashire to Lincoln (J. Wright, 'English Dialect Dictionary' (1900), s.v. Gate).

<sup>24</sup> 'Spore: a prop, a support, a buttress' (ib. s.v.).

<sup>25</sup> 'Of the same towne and countye husbondman.'

<sup>26</sup> An allegation to justify the plaintiff in bringing the case before the Star Chamber. See p. 20, n. 14, supra.

<sup>27</sup> Bills varied 'in form from a simple concave blade with a long wooden handle to a kind of concave ax with a spike at the back, and its shape terminating in a spearhead' (J. A. H. Murray, 'Engl. Dict.' s.v.). Representations of bills are given in F. Grose, 'English Military Antiquities' (1801), ii. plate 28, and in S. R. Meyrick, 'Ancient Armour,' ii. 220.

<sup>28</sup> The club was one of the weapons anciently peculiar to the unfree. By the 'Leges Henrici Primi,' c. 78, s. 2, as an evidence of the degradation of a free man to a servile condition, 'billum vel strublum vel deinceps ad hunc modum servitutis arma suscipiat,' where 'strublum,' a *ἄπαξ λεγόμενον*, with a various reading 'stumbulum,' is by some translated a club, though by others a goad. Bracton says that the club was a slave's weapon.

<sup>29</sup> Furnished with a pike, spike, or sharp point (J. A. H. Murray, 'Eng. Dict.' s.v. 'piked.' Similarly, 'pykeforks.'

viiij<sup>40</sup> dayes together with knylyng<sup>30</sup> of Belles hovtyng<sup>31</sup> and shoutyng in most Riotus maner that the like therof hath not byn sene in thes parties.

And also gracijs soveraing lorde the xiiij<sup>th</sup> daye of Auguste laste paste your saide Orrator Distrenyd iiij Bestes for that they were defoulyng of the gresse of your saide Orrator in a place callid Bull holme in Thingden Aforesaid and them Impoundyd in the common pounce ther as lawfull it was for him to doo.<sup>32</sup> And on William daye the elder of Thingden aforesaid husbondman William daye the younger of the same towne and countye husbondman George Spenser of the same towne and countye laborer Thomas Knyghte of the same towne and countye husbondman, Thomas Makernes of the same towne & countie husbondman & Robert daye of the same town and countye laborer the xv<sup>th</sup> daye of Auguste laste paste Riotusly with Force and armes Broke the Common pounce and toke oute the Bestes ther impoundyd without makyng any Amends for them.<sup>33</sup> And also Richard Walter of the saide towne and countye husbondman Edmund Walles,<sup>34</sup> John Rosime,<sup>34</sup> Henry Sylby,<sup>34</sup> William Makernes,<sup>34</sup> Thomas Makernes,<sup>34</sup> William Whytelarke<sup>34</sup> Henry Smyth<sup>34</sup> and other Riotus persones to the number of xij persones the saide xv<sup>th</sup> daye of Auguste laste paste Riotusly with Force and Armes enteryd into a grounde callyd debdale in Thingdon aforesaid being the seuerall ground of the saide John Mulsho<sup>35</sup> and there Riotusly kepte their hole herde of Bestes to the number of nyne or ten score and ete and defouled the seuerall gresse of the said John Mulsho by the space of

<sup>30</sup> Knelling.

<sup>31</sup> Hooting.

<sup>32</sup> The distraint of beasts damage-feasant was recognised as a right by Bracton, which has survived to the present day. 'Dicere enim poterit captor quod iuste cepit aueria sua quia illa invenit in damno suo et secundum legem et consuetudinem regni impareavit illa donec damnum ei esset emendatum' (Bracton, f. 158). This principle was accepted in the law courts—Y.B. 20 & 21 Ed. 1 (R.S.), 76 (1292); W. S. Holdsworth, 'Hist. Eng. Law,' iii. 246, n. 4.

<sup>33</sup> 'The lord might not sell the beasts; he might not use them. When he has taken them they are not in his possession; they are, as the phrase goes, *in custodia legis*. He must be always ready to show them; he must be ready to give them up' (Pollock and Maitland, 'Hist. Eng. Law' [1895], ii. 574). The condition of surrendering them again to the owner in such a case was, according to Bracton, when the complainant, 'accompanied by worthy men' ('cum probis hominibus'), 'is ready in their

presence and in their sight to make good the damage. If, however (as in this case), the complainant affirm that the distraint of the beasts was against law, for that they did the distrainer no damage, nor did he show any damage, although the owner had offered to satisfy him for damage done, then the distrainer must produce a sufficient suit of witnesses ("sectam") to prove that he took them in damage to him and therefore legally' (Bracton, f. 158). 'If the owner (of the cattle) break the pound, and take away his goods, the party distraining may have his action *de parco fracto*, and he may also take his goods that were distrained wheresoever he find them, and impound them againe' (Coke upon Littleton, 47, b).

<sup>34</sup> 'Of the same towne and countye husbondman.' Walles (Wales), Rosime (Rosemay), Sylby (Selby), had been in the deputation of six before the commissioners in August 1528. See I, p. 29, *supra*.

<sup>35</sup> See *Introductio* p. lxxiii.



iiij dayes Whervpon the said John Mulsho Dystreynynd the saide Bestes for that they were damage Feasaunte and so causyd them to be dryvyn towards the comen pounce of Norhampton<sup>36</sup> in the saide countye of Norhampton and in dryvyng them on Agnes Walter wyffe of the saide Richard Walter Agnes Walles wyffe of the saide Edmund Walles Custans sylby wyffe of the saide Henry Sylby Elen Makernes wyffe of the saide William Makernes Elen Makernes wyffe of the saide Thomas Makernes Agnes Whyteclarke<sup>37</sup> wyffe of the saide William Whytelarke the Elder and Alys Smyth wyffe of the saide Henry Smyth Elizabeth Skynner of the saide towne and countye spynster and Agnes Dalby of the same towne & countye spynster seruand of on Robert teysdayle<sup>38</sup> of Thingden aforesaid husbondman and other wymen and wymen seruands to the number of xiiij parsones of the saide towne of Thingdon By the commaundemente of their saide husbonds and masters Rioutusly and with Force and armes on the xvij daye of Auguste laste paste toke away the dystres from the seruands of the said John Mulsho in the felde of Orlingeer in the saide county being iiij miles from Thingden<sup>39</sup> aforesaide and there Rioutusly rescuyd the same<sup>40</sup> And over this gracus soueraing lord the inhabitauntes of the said hole towne of Thingden aforesaid contrary to your peace lawes and statutes dyuers and sundry tymes vnlawfully doth assemble them selves and doo confederate and combynate them selues ayenst the

<sup>36</sup> Mulsho was in a difficulty. The pound at Thingden had been broken open that day, as he alleges, by six persons named by him. On the same day, while the pound was, presumably, still open, another group of persons, including one only of the pound-breakers, Thomas Makernes, drove their cattle into the inclosure called 'Debdale.' Coke lays down the law, which on this common cause of quarrel was well settled before his time, that 'if a man distraine cattle for *damage feasant*, and put them in the pound, and the owner that had common there make fresh suite, and find the door unlocked, he may justifie the taking away of the cattle in a *parco fracto*.' As, with the exception of Thomas Makernes, none of the second group of owners of cattle had broken open the pound originally, they could have justified the rescue of their cattle from the broken pound. There was thus a legal as well as a material obstacle to the impounding of their cattle in the broken pound, though the latter was probably the dominant consideration with John Mulsho. He elected, therefore, to impound them at Northampton. But Northampton is  $13\frac{1}{2}$  miles distant, and by the statute of Marlborough (or Marlebridge)

of 1267, c. 4, after a proviso that 'none from henceforth shall cause any distress that he hath taken to be driven out of the county where it was taken,' it is laid down that 'distresses shall be reasonable and not too great.' This had been judicially interpreted as meaning 'within three miles in the same county' (Coke upon Littleton, 47, b). He was, therefore, committing an illegal act.

<sup>37</sup> Sic.

<sup>38</sup> The foreman of the deputation before the commissioners in August 1528. See I, p. 29, *supra*.

<sup>39</sup> The selection of a place at this distance from Thingden suggests that the tenants were acting under advice. See n. 36, *supra*.

<sup>40</sup> 'If the distresse be taken of goods without cause, the owner may make rescous; but if they be distrained without cause, and impounded, the owner cannot break the pound and take them out, because they are then in the custody of the law' (Coke upon Littleton, 47, b). The justification of the rescue would be (1) that the distraint was without cause, (2) that the action of Mulsho in driving the cattle to Northampton was illegal by the statute of Marlborough.

said John Mulsho their land lord and calle commen councelles<sup>41</sup> and

<sup>41</sup> The law of conspiracy was originally directed not against trade combinations, but against the abuse of legal process known as 'maintenance,' such as is here imputed to the inhabitants of Thingden. Its statutory foundation was 33 Ed. 1. 'An Ordinance concerning Conspirators.' It opens with a definition of conspirators. 'Conspirators be they that do confeder or bind themselves by Oath, Covenant, or other Alliance that every of them shall aid and bear the other falsly and maliciously to indite or cause to indite, or falsly to move or maintain Pleas.' The Act goes on to define champerty (*campi-partitio*). 'Champersters be they that move Pleas and Suits, or cause to be moved either by their own procurement or by others, and sue them at their proper Costs, for to have part of the Land in variance, or Part of the Gains.' But, as appears from the Act passed in 1327 against Maintenance, of which Champerty was, as Coke says, 'a species,' the legislature had in view the promotion of vexatious suits by rich men, not combinations amongst tenants (see 1 Ed. 3, st. 2, c. 14), or else the intimidation of witnesses or litigants, as in the Act of 1330 empowering Justices of Assize to inquire concerning cases of maintenance (4 Ed. 3, c. 11). That the great men had found imitators in the lower social strata may be inferred from the Act of 1346 that none of the royal household 'nor Prelates, Earls, Barons nor other great nor small of the land, of what Estate or Condition they be, shall not take in hand quarrels other than their own, nor the same maintain by them nor by other, privily nor apertly for Gift, Promise, Amity, Favour, Doubt nor Fear nor for none other Cause' (20 Ed. 3, c. 4). Inasmuch as the tenants of Thingden were neither persons of the rank contemplated in the earlier Acts, nor maintainers of any quarrel but their own, they could not be struck at by any of these statutes. Nor were the Statutes of Labourers, passed in 1349 (23 Ed. 3, cc. 1-7) and 1350 (25 Ed. 3, st. 2, cc. 1-7), applicable. 'They applied to hired servants—not to tenants who held land and occupied themselves thereon.' In a case in the Year Book 40 Ed. 3, Mich. pl. 16, Finchden, J. said: 'Le statut fuit fait en advantage des Seigniors, que ils n'avoient pas default des servants' (cited by W. S. Holdsworth, 'Hist. of English Law,' ii. 383). There was, indeed, a statute passed in 1377, directed against a state of things which presents some characteristics like those in the Thingden case (1 Ric. 2, c. 6). It recites that 'Villaines and Landtenants in Villenage, who owe service and

Custom to their said Lords (the complainants) have now of late withdrawn and do daily withdraw their Services and Customs due to their said Lords by Comfort and Procurement of other their Counsellors, Maintainers, and Abettors in the Country, which hath taken Hire and Profit of the said Villaines and Landtenants, by Colour of certain Exemptions made out of the Book of Domesday.' It is to be observed, however, that this was, in fact, but an extension of the Statute of Labourers, the complaint being that the labourers were hiring themselves out to other lords, which was not suggested against the Thingden tenants, the economic conditions leading to such transactions having ceased. Another statute of the same session (1 Ric. 2, c. 7) against maintenance reverts to the original standpoint of the legislature, and is directed against maintenance by the giving of liveries and hats (cf. 13 Ric. 2, st. 3 [1390]). An Act of 1495 (11 Hen. 7, c. 25) was 'An Acte against Perjury unlawfull mayntenaunce and corrupeion in officers,' by tampering with juries, &c. In 1540, indeed, eleven years after John Mulsho's bill of complaint, an Act was passed (32 Hen. 8, c. 9) in terms wide enough to cover, and probably intended to cover, such cases as that of the tenants of Thingden. At that date the eagerness of the new purchasers of the monastic lands to make a profit out of their bargains undoubtedly led them to rack-rent the tenantry, who were driven to concert common resistance. (Cf. the case of Kent and others *v.* Seyntjohn in 'Select Cases in the Court Requests,' pp. 64-101.) It seems even doubtful whether the combination of the Thingden tenants was an offence against the common law. When Coke says of maintenance, 'It was an offence against the common law,' he adds 'for the rule of law is, culpa est se immiscere rei ad se non pertinenti. And, pendente lite nihil innovetur' (2 Inst. 208). Neither of these reasons had application to the conduct of the tenants of Thingden. It must be taken that Mulsho's counsel, who avoid actual use of the word 'maintenance,' were conscious of this flaw in their case, and that this was why they advised that his bill should be filed in the Star Chamber, a court which, inspired by regard for public policy, was apt to strain statutes. 'Onlawfull mayntenaunces' are the first recited offence in the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1), over which the Court of Star Chamber is given statutory jurisdiction, and Hudson devotes § ix. of his Treatise to the subject of Maintenance. But, as the decisions o



parves<sup>42</sup> and make a comen purse among them promising all of them to take parte with other saing that xx<sup>ti</sup> of them would spend xx<sup>ti</sup> score poundes ayenst the said John Mulsho contrary to your lawes and statutes in most perelus Insample so that the lyke therof hath not byn sene. In tendre consideracion wherof it may please your highnes with the aduyse of your most honorable councel to order and provide that the saide John mulsho may Inclose ageyne the said close<sup>43</sup> and therin to kepe in seueralte and peace without lett or disturbance of the Inhabitauntes of the saide towne of Thingden as also to commaund such of the said Riotus persones as be here present in your honorable corte of the Sterre chaumber to make answer to the premisses and to award your gracijs wryttes of subpena ayenst such of the same Riotus persones as be absent commaundyng them and euery of them by the same to appere personally before your highnes or your most honorable councell in the Starr Chaumber ther to answer to the premisses. And your said suppliant shall dayly pray to god for the preseruacyon of your highnes long to enduer.

(No Indorsement.)

N. To the kyng our soueraingn lorde.

In most humble wyse shewyth and compenyth vnto your Highnes your trew and faythefull subiecte John Mulsho of Thingden in your countie of Norhamton Esquier that where the thorde daye of December last paste<sup>1</sup> it was decrede by sir Thomas More lord chaunceler of Englonde<sup>2</sup> and other of your most Honorable

1530

the Court were prompted by policy, and the policy of the Government at this time was favourable to the yeomanry, the charge of maintenance in this case was probably ineffective. Hudson, in his section on Maintenance, speaking of a case to which he assigns neither date nor tribunal, says: 'It is no maintenance for the tenants of a manor to join together to maintain their customs, as the judges held in Dunch and Doyly's case' (p. 90).

<sup>42</sup> Apparently the plural of 'Parvis, the enclosed area or court in front of a building, especially of a cathedral or church.' Hence, 'A public . . . conference, so called from being originally held in the court or portico of a church' (J. A. H. Murray, 'Engl. Dict.' s.v.). It may be that the use of the word here was suggested by their holding their meetings in the parvis, or porch, of the church. At Oxford disputations were held in the porch of St. Mary's Church, and down to 1893 the 'testamur'

affirmed the Responsions, of the passing of which it was the certificate, to have been held 'in parviso.'

<sup>43</sup> That is, Debdale. He does not petition to reinclose Bull holme. See *Introd.*, p. lxxiii.

<sup>1</sup> 1529. This document is S.C.P. Hen. 8, xxvi. 250.

<sup>2</sup> Sir Thomas More, born 1478, son of Sir John More by Agnes, daughter of Thomas Graunger; educated in the household of John Morton, Archbishop of Canterbury and Lord Chancellor; afterwards at Canterbury Hall, Oxford; admitted to Lincoln's Inn, 1496; returned to Parliament in 1504; married (1) Jane Colte, daughter of John Colte of Newhall, Essex, in 1505; (2) a widow, Alice Middleton. He was sent ambassador to Flanders in 1515; was made a Privy Councillor in 1518; is said to have inspired the Council in 1521 to put in force the statutes against unlawful inclo-



councell<sup>3</sup> in your high courte of the starre Chamber at Westminster that diuers closis in Thingden aforesaid in your saide countie of Northampton Callyd Bulholme Debdale Mille close West townesende, Tryndle close and Prices Close the hedges and dyches of which Closis of late were throwne downe by the Inhabitauntes of the said Towne of Thingden contrary to a decre before that tyme made in your saide High courte of sterre Chaumber the Sevynt<sup>h</sup> daye of Nouember in the second yere of your most noble Reingn<sup>4</sup> should be eftesons<sup>5</sup> Inclosid and quikksett as well and sufficiently as they were at the furst makynge of the saide Inclosurs and that the saide new Inclosing and quikke setting and dede<sup>6</sup> hedges for the defens of the saide quikke settes and all other thinges therunto belonging shuld be hadd and done at the proper costes and Charges of the said Inhabitauntes of Thingdon which pluckyd vppe and dystroyde the saide Inclosure or were Ayders or procurers of the same. And for that then at the makynge of the saide decre in the said xxj<sup>th</sup> yere of the Reingn<sup>7</sup> it was to your said most honorable councell vncerteyne how moche the cercute of the same Inclosure dyd conteyne And also to them vnknowne what the charges of makynge and setting ayeyne of the saide hedges and quikke settes would drawe vnto it was therfore forther by the same decre orderyd that the saide John Mulsho shuld cause the saide Inclosure to be eftesons Raysyd and the quikke settes to be sett there And that being doon and performyd the saide Inhabitauntes and Also that dane<sup>8</sup> Eles now Abbott of Croxton in the countie of Leicester<sup>9</sup> If he were founde hereafter

tures. He was knighted in 1522; Speaker of the House of Commons, 1523; Chancellor on October 25, 1529, in succession to Wolsey; resigned May 16, 1532; condemned for high treason, and executed, 1535. ('Dict. Nat. Biog.')

<sup>3</sup> On this form see 'Select Cases in the Court of Star Chamber' (1902), pp. xxxviii-xlv.

<sup>4</sup> 1510.

<sup>5</sup> Again.

<sup>6</sup> As opposed to 'quick.' Cf. Fisher Wks. (1876), p. 326. 'As a deed stoke, a tree withouten lyfe' (1521). (J. A. H. Murray, 'Engl. Dict.' s.v. 'dead.')

<sup>7</sup> 1529.

<sup>8</sup> See Abbot of Peterborough v. Power and others, p. 130, n. 2.

<sup>9</sup> The bill filed before Sir Thomas More being missing, this is the first mention of the Abbot. This was Elias Attercliff, elected September 10, 1491 (W. Dugdale, 'Monasticon Anglicanum' (ed. 1846), VI. ii. 876). The Abbey, dedicated to St. John

the Apostle and Evangelist, was founded in 1162 as a house of Premonstratensian Canons, commonly known as White Canons. 'By a finalis concordia, preserved in Croxton register, it appears that in Northamptonshire they had at Thyngdon and Burton Latimer 27 acres of land, one messuage, and a rent of 11s. 4d., with three pounds of pepper and one of cummin. They had *maritagia* at Thyngdon, Harweden, and Burton, *et totum servitium liberorum suorum et homagia et relevia eorum*. All this was confirmed, about 1250, by Richard de Clare, Earl of Gloucester, who had married Margaret, the daughter of Hubert de Burgh, Earl of Kent. . . . This abbey was valued, at the suppression, at 458*l.* 19*s.* 0*½d.* of yearly rent gross' (J. Nichols, 'Hist. of Leicestershire' [1795], II. i. 156). It was, therefore, one of the greater monasteries. In the 'Computus Ministrorum' of 31 Hen. 8 (1539) is the entry: 'Northampton, Thingdon et Burton Latimer, manerium et rectorie, 24*l.*,' shew-

by dew and sufficient proue before your saide counsell to be faultie in the Mayntenaunce and procurement of the same pluckyng downe of the said hedges and quikesettes aforesaid shuld Repaye or contente to the said John mulsho or his heires all maner of charges and expenses that the said John mulsho or his heires employde vpon the saide Inclosures appoyntyd by the saide decre of new to be made and sett accordyng as it shuld be deuysed and Ratyd by your chaunceler of Englund for the tyme being and other of the kynges Honorable counsell as by the same decre made in the said xxj<sup>ti</sup> yere of your Reing<sup>7</sup> among other thinges in your said corte Remaynyng of Recorde more at large it apperyth accordyng to which decre the said John mulsho hathe causid the saide closis to be new Inclosid quikesett and hedgyd contenyng cxxxvij<sup>ti</sup> Acres<sup>10</sup> the charges of which hedging dychyng quikesett and thornes<sup>11</sup> necessary for the same extendyd and amountyd in the hole to the Sum of Forty poundes So It is most gracyus soueraingn lorde That Roberte Tesdale of Thinden in the countie of Norhamton husbond, Richard Waltar of the same towne and countie husbond Edmund Walles of the same towne and countie husbond John Rosime of the same towne and countie husbond, William Makernes of the same towne and countie husbond Thomas Makernes of the same towne and countie husbond

ing that the advowson of Thingden had been appropriated by the Abbey, and that it also held a manor in Thingden (Bridges, ii. 259). The surname of Elias Attercliff was probably that of his birth, adopted at his profession, as was then the fashion (R. Holinshed, 'Chronicles' [1808], p. 213). Attercliff is two miles E.N.E. of Sheffield, in the West Riding of Yorkshire. Abbot Attercliff had presumably lived at Thingden, having been presented to the vicarage on January 14, 1499. He resigned it in 1501 (Nichols, p. 157). His seal as abbot is engraved (ib. p. 150). Nichols also prints a list headed 'Terre, tenementa, et redditus quod Helyas Aterclyff, abbas de Croxton, eidem ecclesie intra annos 12 Henrici VII. ultimos, et 29 diem Maii, 15 Hen. VIII. recuperavit'—that is, between 1497 and 1523. The list mentions nine places in which he restored land or houses to the monastery, but does not mention Thingden, though it concludes with the words 'eum multis aliis' (Nichols, ib. Append. xi. p. 103). These services to the community justify the description given of him in the official account of his election preserved in the Register of the Premonstratensians as 'virum . . . scientem et volentem jura ecclesie sue tueri,' which suggests a training,

at least, in Canon Law (ib.). In 1522 a loan of one-fourth of their possessions—that is, annual income—was granted by the Spirituality for the expenses of the war with France, to be followed by a subsidy in the following year of a moiety, payable in five years. The house of Croxton (Crokesden) is assessed for the loan at 66*l.* 13*s.* 4*d.* (L. and P. Hen. 8, iii. 2483), nearly one-fifth of the net income of the abbey, which was returned at the Dissolution at 385*l.* 0*s.* 10<sup>3</sup>/<sub>4</sub>*d.* (Dugdale, l.s.c.). Abbot Attercliff was summoned to Convocation for the archdeaconry of Leicester in 1529 (L. and P. IV. iii. p. 2698). He died on March 6, 1534 (ib. vii. 297). Croxton, or, as the Abbot spells it, Croxston, known as Croxton Kerrial, on the N.E. border of Leicestershire, received its second name from Bertram de Criol or Keryell, to whom the manor was granted by Henry 3 in 1242 (Nichols, II. i. 146). It would be by road about 44 miles N.N.W. of Thingden.

<sup>10</sup> See Introd. p. lxxvi.

<sup>11</sup> Thorn is mentioned only incidentally in M, but here thorns are singled out as of special importance. See M, p. 38, n. 8, *supra*.

William Whitelarke the elder of the same towne and countie husbond Henry Smyth of the same towne and countie husbond John Walker <sup>12</sup> of the same towne and countie husbond Edmond petite of the same towne and countie husbond, William Daye of the same towne and countie husbond and Thomas Knyghte of the same towne and countie husbond by the sinister labor and procurement <sup>13</sup> of the said now abbott of Croxton the xij<sup>th</sup> daye of January in the xx<sup>th</sup> yere of your most gracios Rengn <sup>14</sup> Riotusly vnlawfully and ayenst your pease threw and dyd caste downe the said dyches and hedges of the said closis mensionyd in the said decre made in the said xxj<sup>th</sup> yere of your Reingn <sup>15</sup> as here tofore it hath byn duly prouyd before your most honorable councell And syth the new making of the saide diches hedges and quickesettes in maner and forme aforme <sup>16</sup> aforesaid accordyng to the said last decre the said John Mulsho hath oftne and many tymes Requird aswell the said Roberte teysdale and other before with him namyd as the saide Abbott to make to him paymente of the saide Sume of xl<sup>li</sup> layde oute of and for suchie costes and charges as the same John mulsho hath byn at in the new making of the same dykes hedges and quickesettes accordyng to the said last decre which to doo they haue alway Refusid and yet doo contrary to all Ryghte and good concyence <sup>17</sup> In consideracyon wherof it may please your highnes the premissis consideryd to graunte your gracyus seuerall wryttes of Subpena to be directyd aswell to the said Roberte tesdale and other before namyd as to the said Abbott commaundyng them and euery of them personally to appere before your highnes or your most honorable councell in your ster chaumber at a certeyne day and vnder a certeyne payne by your highnes to be lymtyd, they there to Answer to the premissis and to Abyde such order and direccyon as then and there shalbe takne by your highnes

<sup>12</sup> Presumably the same as John Walter in M, p. 41. All the others are mentioned in M, but in M there are 'William Daye the elder' and 'William Daye the younger,' whereas here there is only one William Daye, which suggests that the elder had died in the interval.

<sup>13</sup> This is, in effect, a charge of maintenance. The above recital of the decree says 'maintenance and procurement.' See further O, p. 50, n. 9, *infra*.

<sup>14</sup> 1529. But the 'xii<sup>th</sup> daye of January' seems to be a mistake for xvi<sup>th</sup>. See M, p. 41, *supra*.

<sup>15</sup> That is, Sir Thomas More's decree

of December 3, 1529. See p. 45, *supra*.

<sup>16</sup> Sic.

<sup>17</sup> Fitzherbert in the 'Boke of Husbandrie' (p. 72) says: 'It is good tyme to set quicksettes fro that tyme the leaves be fallen vnto oure lady daye in lente' (March 25). Assuming that Mulsho began his work in December, immediately after More's decree, he would continue it in the spring. After this he 'many tymes requird' the Abbot of Croxston, who lived forty-four miles distant, to pay his decreed contribution. It is probable, therefore, that he did not file his bill before Michaelmas Term 1530.



or your most honorable counsell And your said Oratours shall dayly pray to god for the preseruacyon of your hignes long to enduer.

*Indorsed.* Mulsoo versus Abbatem de Croxston.

*In a later hand.* Mulsho v. Abbot of Croxton.

O.<sup>1</sup> Thanswere of Elys abbott of Croxston to the surmysed <sup>2</sup> byll of compleynt of John Molshoo.

1530 The seid abbott seith thatt the seid bill is vnccerten vntrue & insufficyent in the lawe to be answered vnto and the substaunce of the hole matter theryn conteyned, which is surmytted & allegged by the same byll to be by hym commytted or don contrary to the kynges peace his lawes or dygnite or contrary to eny Decree taken or made by the kyng or his most honorable Counsell vntrue imagyned pursued & feyned agenst the seid Abbott only of malyce to putt the seid abbott to wrongfull vexacion costes & exspences without eny good or true grounde or cause reasonable.<sup>3</sup> Neuertheles thaduauntage of the premysses to hym att all tymes saued, for declaracion of the truthe of the matter comprised in the seid byll and for answeere to the same The seid Abbott seith where it is allegged by the seid byll thatt it was decreed by the right honorable sir Thomas More knyght lord Chauncelloure of Englund and other of the kynges most honorable Counsell in the highe courte of Sterre Chamber at Westminster thatt dyuerse closes in Thyngden in the countie of Northampton called Bullholme Debdale mylle close Weste Townesende Tryndle close & pryers Close the hedges & diches wherof as is supposed by the seid byll were before thatt tyme throwne downe by the Inhabitauntes of the seid Towne of Thyngden contrary to a decree before that tyme made in the seid courte of Sterre Chamber <sup>4</sup> shuldbe eftsones enclosed & quicke sett aswell & sufficyently as they were at the furste makynge of the seid inclosure And thatt to be made & done att the costes & charges of the seid Inhabitauntes of Thyngden and also thatt the seid Abbott yf he were founde after thatt by due & sufficyent processe before the seid counsell to be faultye in the mayntenaunce & procurement of the same pluckyng downe of the hedges & quykesettes aforseid shuld paye or content to the seid John Mulsho

<sup>1</sup> Star Ch. Proc. Hen. 8, Bundle xxvi. No. 250. This document and Mulsho's replication are pinned to and numbered by the same number as 'Mulsho v. Inhab. of Thingden,' wrongly intituled in the R. O. Index 'Mulsho v. Abbot of Cronston.'

<sup>2</sup> Apparently in the sense of bill full of surmises—that is, of imaginary grievances.

<sup>3</sup> This is the usual form of plea. See 'Select Cases in the Star Chamber' (1902), pp. xxix-xxx.

<sup>4</sup> I.e. in 1510.

or his heyres all<sup>5</sup> suche charges & exspences towarde the newe enclosure & quicksettyng of the seid closes as shuld be deuysed & rated by the Chauncelloure of Englund for tyme beyng & other of the kynges most honorable counsell as by the seid byll of compleynte & decrees emonges other more pleynly is expressed & declared, The seid Abbott seith that he nor none of his predecessours abbottes of the seid poore howse of Croxton<sup>6</sup> were at any tyme partye to eny byll of compleynt made by the seid inhabytauntes of Thyngden agenst the seid Molshoo concernyng the premisses nor partie to eny answere made by the seid Inhabytauntes to eny byll of compleynt exhybute agenst them by the seid molshoo, nor neuer before this tyme to his knowlege called into this honorable courte by processe or otherwyse to make answere to eny matter or cause concernyng the premysse nor neuer labored nor procured eny of the seid Inhabytauntes of Thyngden to breke vppe or caste downe eny dyche or hedge of the seid closes nor to doo eny acte or thyng contrary to eny of the seid ordres or decrees taken & made by the seid Counsell concernyng the premysse Wherefore the seid Abbott seith that he is not lyable ne chargeable to eny of the seid Decrees made by twene the seid John molshoo & the seid Inhabytauntes whervnto the seid Abbott was neuer partye ne neuer offended ne trespassed concernyng the premisses. But the seid Abbott seith thatt the seid John Molshoo hath not only now of late by coloure of the seid Decrees newly enclosed & made seuerall dyuerse parcelle of landes in Thyngden aforseid<sup>7</sup> wheryn he & his predecessours there free tenauntes & Fermours haue vsed tyme out of mynde to haue comen for their cattell & besse<sup>8</sup> but also the seid John mulshoo by coloure & boldnes of the seid Decrees hath wrongfully enclosed & made seuerall to hym selffe halffe an acre of seuerall medowe grounde in Bulholme aforseid of the true patremonye & inherytaunce of the seid poore howse of Croxston<sup>9</sup> which halfe acree

<sup>5</sup> The language of the decree as recited here and in N (p. 47) indicates that the abbot was to pay only a proportional part, 'as it shuld be deuysyd and ratyd,' and that Mulsho so interpreted it may be inferred from his statement that he had applied to Roberte Teysdale and the other defendants as well as to the abbot for payment.

<sup>6</sup> By no means very poor. See N, p. 46, n. 9, supra. At the surrender on September 8, 1538, it contained eighteen brethren besides the abbot; but at this date the inmates of the smaller had been distributed among the larger monasteries, so that it is probable that the proportion of inmates to

income in 1530 was smaller (J. Nichols, 'Hist. of Leicestershire,' II. i. 157).

<sup>7</sup> This would seem to be true, to judge from Mulsho's own statement in N (p. 47) as to the extent of his inclosures. See *Introd.* p. lxxvi.

<sup>8</sup> Beasts.

<sup>9</sup> If the judgement in *Dunch and Doyle's case* (see M, p. 45, n. 41, supra) was at this time accepted law, the abbot was now justifying the intervention disclaimed by him as, in effect, legal maintenance, he having an interest in common with the tenants generally. In any case to have held the common defence of common inte-

of medowe the seid Abbott & his predecessours haue vsed tyme out of mynde peasably to haue vse & occupye in seueraltie to their owne vse without lett & interupcion of eny person vntyll now of late the seid molshoo wrongfully taketh the proffettes therof and wyll not permytte ne suffre the seid Abbott to haue vse & occupye the seid halffe acree accordyng to his seid right intereste & title in & to the seid halffe acre contrary to all right & good conscyens For redresse & remedye of which wronge concernyng the premisses the seid Abbott prayeth reformation & remedye to be vnto hym theryn hadd & made by this honorable court accordyng to equitye & justice. Without thatt <sup>10</sup> the seid Abbott dyd at eny tyme labore or procure eny of the seid Inhabitauntes of Thyngden aforseid riottiously or otherwyse to pull vppe or caste downe eny of the seid hedges or dyches concernyng the premysses or to commytte or doo eny Acte or thyng contrary to the kynges peace or contrary to eny of the seid decrees in maner & forme as by the seid byll it is allegged. But he seith that he & his seid Tenauntes & Fermours doo permytte & suffre greate iniuries & wronges to them dayly commytted & don by the seid John Molshoo & other by his meanes concernyng the premysses wherof the seid Abbott prayeth reformation & remedye by the aide of this honorable Courte. Without thatt thatt eny other thyng in the seid byll conteyned materiall for the seid Abbott to answeere vnto and not before confessed aduoyded ne trauersed is true all which matters the seid Abbott is redy to prove as this honorable Court wyll awarde and prayeth to be dysmissed out of the same with his reasonable costes charges & expences thatt he hath wrongfully susteyned in this behalffe.

*No Indorsement.*

P.<sup>1</sup> The replicacyon off John Mulshoo to the answeere of Elice abbote of Crookeson.

1530 The saide John saithe that the saide bill is certeyn true & sufficyent in the lawe to be answered vnto and that the matter therin conteyned is true and not imagened pursaide <sup>2</sup> ne feyned agaynste the

rests illegal would have conflicted with Coke's belief that 'the law is the perfection of reason' (Coke upon Littleton, 97 b).

<sup>10</sup> 'By the reign of Henry 6 the Courts had laid it down that every affirmative must be answered by an express negative "... absque hoc," or "sans ceoque. . . ." This negative statement was called a

traverse' (W. S. Holdsworth, 'Hist. of English Law,' iii. 477).

<sup>1</sup> That the date of the Abbot's answer belongs to the first half of 1530 appears from the date of document Q. This replication perhaps belongs to Michaelmas Term.

<sup>2</sup> Pursued.



saide abbote vppon malice or vppon any suche cause as in the saide answere is vnruly surmytted but oonly vppon good & juste cause and matter expressed & declarede in the saide bill of complaynte and that the said answere ys incerteyn and insufficyent to be replied vnto the aduauntage therof to hym sauyd for replicacyon he seyth that the saide Robert Trysdale<sup>3</sup> and the other ryotouse persones named in the saide byll of complaynte by the labor & procurement of the said abbote the saide day & yere expressed in the sayde bill of complaynte ryotously vnlawfully and agaynste your peace thure & keste downe the said hedges & dyches of the saide closes mencyned in the saide bill of complaynte & decree mencyned in the same as in the saide bill of complaynte is surmytted and that all & euery other thyng expressed & conteyned in the said bill off Complaynte is true in euery poynte & artycle accordyngly as in the same bill is declared as shall be substancyally proued aswell by a byll of complaynte exhibitte by the saide Abbote in the Kynges most honorable courte of his Chauncerie agaynst the said John Mulshoo for the saide enclosure there remaynyng of Recorde<sup>4</sup> as also by confessyon of dyuers of the tenautes of the said abbote before this tyme hadde & made in this honorable courte before the kynges moste honorable counsell there syttyng shall more playnly apere<sup>5</sup> Without that the said John Mulshoo now of late by Color of the saide decrees hathe newly enclosed & made Seuerall dyuers parcell of londes in Thyngden Aforesaide wherin the said Abbote and his predycissors and theyr Free tenautes and Fermors hathe vsed of tyme out off mynde to haue comen<sup>6</sup> for their cattell and beastes or that the said John mulshoo by color of boldnes of the saide decrees hathe wrongefully enclosed & made seuerall to hym selff half acre of Seuerall Medowe grounde in Bullholme of the true patrymonye and Enherytaunce of the said howse of Crockston or that the saide mulshoo wrongfully dothe take the profyttes of the saide medowe or doo dysturbe the saide Abbote in takynge the profyttes of the same as in the saide answere is vnruly Surmytted And without that any other thyng materiall or answerable expressed or conteynyed in the saide Answer other than in this replicacyon is confessed avoyded or trauersed is true as in the same Answer is also vnruly Surmytted All wiche matters the seid John mulshoo schall be redie to auerre and proue as

<sup>3</sup> Teysdale and Tesdale in N, p. 48, supra.

<sup>4</sup> I have been unable to trace this suit in the Official Lists and Indexes of Chancery Proceedings issued by the Record Office

<sup>5</sup> This appears to imply that some suit in the Star Chamber had already been tried between the Abbot and Mulsho, of which I have failed to find any trace.

<sup>6</sup> Common.

this courte schall awarde and prayth as he tofore hathe prayed in his saide bill of complaynte and also that the seyde Abbote maye be compelled by the order of this courte aswell to content and pay to the saide John mulshoo xvij<sup>li</sup> viij<sup>s</sup> viij<sup>d</sup> beyng the moyte of xxxiiij<sup>li</sup> xv<sup>s</sup> iiij<sup>d</sup> awarded to the saide John mulshoo by decree out of this honorable courte & to the saide John mulshoo to be payed by the saide abbote & the saide persones named in the saide bill of complaynte for the costes & charges of the new inclosyng dychyng and quykke setting of the said closes named in the bill of complaynte as also the costes and charges by the saide John Mulshoo susteyned for the wronges & hurtes to hym donne by the saide abbote and the other mysruled persones named in the saide bill mencyned and expressed in the saide bill of complaynte.

*No indorsement.*

1530 Q. Henricus octauus dei gracia Anglie et Francie Rex fidei defensor et Dominus Hibernie <sup>1</sup> Dilectis sibi Edwardo Mountague <sup>2</sup> et Willelmo Saunders <sup>3</sup> armigeris salutem. Sciatis quod dedimus vobis potestatem

<sup>1</sup> It was not till June 1541 that Henry 8 assumed the title of King of Ireland (H. A. L. Fisher, 'Political Hist. of England,' vol. v. [1906], 472).

<sup>2</sup> See Bareth v. Newby, p. 171, n. 12. Riding by way of Northampton from his manor house of Boughton, Mountague would reach Thingden in a little more than seventeen miles.

<sup>3</sup> William Saunders, third son of Edward Saunders, of Harrington, Northants, purchased the manor of Welford, in that county, when it was sold by the trustees of the will of Edward Hastings, Lord Hastings, which will was dated November 21, 22 Hen. 7 (1506). He was probably, like his colleague Edward Mountague, also a Northamptonshire man, a Master of the Bench of the Middle Temple ('M. T. Records,' i. 73) and Reader in 1524 (ib. 77), and we know from a letter of his dated December 26, 1537, that Edward Saunders of 'The Temple' was his nephew (see ib. 76 and L. and P. Hen. 8 xii. i. 1269). The first mention of him in the L. and P. Hen. 8 is a grant, dated March 24, 1514, of the wardship of George, son and heir of John Belgrave, late of Blaby, Leicestershire (L. and P. i. 4912 and ii. p. 1486). This would probably be a relation of his wife, Dorothy Belgrave, daughter of Richard Belgrave, of Belgrave, and widow of Henry Cave, of Cold Ashby, Northants (J. Nichols, 'Hist. of Leicestershire,' iii. i. 177). He was employed from

time to time upon local commissions of inquiry (L. and P. iii. 523, November 26, 1519, and vi. 515), and in 1523 was a commissioner to collect the subsidy for Northants (ib. iii. p. 1366), appearing in December of the same year for the first time as a Justice of the Peace (ib. 3677, 12). In April of the following year, as a colleague of others who figure in these pages, John Mulsho, Sir Wm. FitzWilliam, 'Lord' Brudenell, and Geo. Quarles, he was nominated a commissioner for the county to raise a loan for the war with France, pending the collection of the subsidy (ib. iv. p. 83), and in August a collector of the subsidy itself (ib. p. 239). He continued on the Commission of the Peace in subsequent years (ib. 2002, 11, &c.). At the time of the famine of the autumn of 1527 he was one of those commissioners for inquiry into the stores of corn in Northants of whose proceedings some account is given in the case of Bareth v. Newby on p. 169. In this inquiry he undertook alone the report on the Hundred of Gillesburgh, in which his own manor-house of Welford was situate (L. and P. iv. 3587, 5, iv.). In 1530 he was a commissioner of gaol delivery at Northampton Castle (ib. p. 2919). Having on March 17, 1525, obtained a grant of the wardship of Thomas, son and heir of William Haddon, with custody of the manor of Ever Cornewallys, Bucks (ib. 1230, 17), he was de-



et auctoritatem recipiendi responsum Elisii<sup>4</sup> Abbatis de Croxton ac sacramentum super eodem ac ad audiendum et examinandum causas in quibusdam billis<sup>5</sup> coram nobis et consilio nostro apud Westmonasterium inter Johannem Mulsoo Armigerum querentem et dictum Abbatem ac alios defendentes quas vobis mittimus presentibus interclusas necnon viis modis et mediis quibus melius sciueritis aut poteritis

nounced to Cromwell by an anonymous informer in 1533 as guilty with others of 'fraudulent demeanour, by which the King is defrauded of great sums from the lands of Thomas Haddon, lately within age.' These are set out as being of the value of 124*l.* 6*s.* per annum, situate in the counties of Oxford, Northampton, Kent, and Suffolk, but, strangely enough, none in Bucks (ib. vi. 1680). The reasons of the grant of the wardship undoubtedly must have been that he had married as his second wife Dorothy, daughter of John Young, of Crome d'Abitot, Worcestershire, and widow of William Haddon, by whom she was the mother of Walter Haddon, Queen Elizabeth's Master of Requests (see G. Lipseomb, 'Hist. of Buckinghamshire' [1847], iii. 32, 38. Bridges, 'Hist. of Northants,' i. 593, inverts the order of the wives.) He was, therefore, stepfather of his ward, and the grant in 1525 probably marks the date of his second marriage. At the beginning of the Northern rebellion of 1536, when the king announced his approaching march through Northampton, at the head of 30,000 men, both Mountague and Saunders were among the eight magistrates who met to make arrangements for the provision of victual for the troops, which a letter from them to Cromwell of October 31 shews they felt difficulty in carrying out (ib. xi. 931). He was evidently zealous for the new order of things, writing from Welford to Cromwell on December 26, 1537, a report of a disaffected adherent of the monks whom he had committed to Northampton jail for seditious language (ib. xii. i. 1269). As likely to be useful in the event of dissolution, the abbot of Pipewell, Northants, granted him an annuity of 1*l.* 6*s.* 8*d.* (Dugd. 'Monast.' v. 442), and employed him in February 1537 to placate Cromwell with a gratuity of 40*s.* (L. and P. xiv. ii. 782), and another to the same amount in February 1538 (ib. ii. 784). When foreign invasion was threatened Saunders was returned by the commissioners of musters for Northamptonshire in April 1539 as able to furnish eighteen men at Welford with harness—that is, as men at arms, in distinction to billmen and bow-

men (ib. xiv. i. 6527) This shews that he must have been a man of considerable means, and the Abbot of Pipewell, at the dissolution on November 6, 1538, returned him as a creditor of the house to the amount of 50*l.* (Dugd. 'Monast.' v. 442.) This suggests an explanation of the court paid by Saunders to Cromwell, to whom, in March 1537, he made a present of 5*l.* (L. and P. xiv. ii. 782). He represented Northants on the Commission of Sewers issued on September 11, 1540 (ib. xvi. 107, 7). He died probably in October 1541, four commissioners being nominated on November 5 to make inquisition on the lands and heir of William Saunders, in respect of the lands in Northants held by him of the Crown (ib. 1391, 12). He held the manors of East Haddon (Baker, 'Hist. of Northants,' i. 163), Welford (Bridges, i. 462), Brikesworth (L. and P. xvii. 137, 15), and two parts of the manor of Yelvertoft (Bridges, i. 608), and land, &c., at Pisford (ib. p. 462). Of these Yelvertoft, Brikesworth, and East Haddon were held of the Crown. His wife Dorothy survived him, and on February 7, 1542, obtained a grant of the wardship of his son and heir, Clement, and an annuity of 10*l.* from the manor of Brikesworth (L. and P. xvii. 137, 15). She married as her third husband, whose third wife she became, Paul Dayrell, of Lillingston Dayrell, Bucks, and died in 1571 (Lipseomb, iii. 32). His will was proved in 1541 as of 'Welforde, Northants; Bucks and Leieester' (J. C. C. Smith, 'Index to Canterbury Wills'). Doubtless in right of his first wife he enjoyed the lease of a messuage at Cold Ashby, belonging to the Abbot of Pipewell (L. and P. xvii. 285, 6). Bridges (i. 594) mentions that in his day (1791) the manor house of Welford had become the Talbot Inn. From Welford, which lies on the border of Leicestershire, in the N.W. of Northamptonshire, the road to Thingden would probably have run through Northampton, a distance of 15 miles, the total distance being, therefore, 28½ miles.

<sup>4</sup> Elias, already corrupted to Elis, the modern Ellis, and Latinised. Englished by the commissioners in their return.

<sup>5</sup> See *Intro.* p. lxxviii.



causas predictas examinandum ac ad easdem causas finaliter si possitis determinandum partibus ac id vocatis et consencientibus Sin autem nos et consilium nostrum apud Westmonasterium in quindena Sancti Michaelis proxime futura<sup>6</sup> quid compertum habueritis in premissis certificetis Remittentes nobis hinc billas predictas vnacum hoc breui Teste me ipso apud Westmonasterium quarto die Julii anno regni nostri vicesimo secundo.<sup>7</sup>

R.<sup>1</sup> To the Kyng our Soueraign lorde and to the lordes of his most Honourable councell.

1530 Pleasith your Highnes to be aduertisid that wee Edward Moun-tygue and William Saunders accordyng to your Gracious comyssion to vs directid concernyng a matter in variens betwixt John Mulsho of Thyngden in your Countie of Northampton Esquyer playntiff and Elyse Abbot of Croxton in your Countie of Leycester Robert Tesdale and other defendantes by whiche comyssion your Highnes gave vs Auctorite to call befor vs the seide partiez and that wee should make theryn a fynall ende yf wee Coulede Or els to certifie your grace and your most Honourable Councell at Westminster the xv<sup>th</sup> of seynt Michell than next foloyng the trouthe of the seide Matter in variens And that wee shoulde also here and examyn certen causez conteynid in a byll of complaynt sued befor your Grace by the same John Mulsho pleyntiff ageynst the same abbott and other defendantes and wee your seid Comissioners accordyng to your high Commaundement the tewisday next aftur<sup>2</sup> the Feaste of seynt Michell last past opynly at the Cessions of the peace than holden in your Castell of Northampton examyned Robert Tesdale Richard Walter John Walter John Rosenev and Edmond Petyt defendantes Whethir they wolde paye to the same John Mulsho their partes or porcions of suche charges amountyng to the somme of xl li.<sup>3</sup> whiche the same John Mulsho had paide and layed oute for the Reysyng and newe inclosyng of certen pastures in Thyngden by vertue of a decree made by your most Honourable councell wherunto the seide Robert Tesdale and John Walter seide they wolde make to vs no Aunswer whethir they wolde pay any thyng or not And Richard Walter seide to vs he wold pay no penny by his gode wyll And John Rossenev and Edmond Petyt seyde they wold

<sup>6</sup> October 13, 1530.

<sup>7</sup> July 4, 1530.

<sup>1</sup> S.C.P. Hen. 8, Bundle xxx. No. 138.

<sup>2</sup> October 3, 1530.

<sup>3</sup> See N, p. 47, *supra*, and Introd. p. lxxvi.

pay nothyng Except the kyng Commaunded them so to doo And the seid Abbot of Croxton apperid not ne the other defendantes namyd in the seid byll afore vs and mor wee haue nott doon in the seide matter.

S.<sup>1</sup>

ix<sup>o</sup> Nouembris anno xxij<sup>do</sup>.<sup>2</sup>

1530 Itt is this daye ordred and Decreed that a Commission be directed to sir John Mordant knight,<sup>3</sup> and Waltier Luke<sup>4</sup> esquire auctorising theim to vieu and survey the grounde lately and newly by John Mulsoo erected hedged and dyched by vertue of a decre made and geven by the Lord Chauncellour and other of the kings moost honourable counsaill the iij<sup>de</sup> day of decembre anno xxj<sup>o</sup> <sup>5</sup> in the variaunces bitwen the said Mulsoo and thinhabitautes of Thyngden, and the hedges and dyches soo newly erected and made to Mesure And the costes and charges in euery behalff susteyned by the said Mulsoo theraboutes to assertayne and the trowth and pleynes theroff to putt in writing And the same to certify together with what they doo and shall perceyue therin bfore the King and his moost honourable Counsaill at Westminster crastino Purificacionis<sup>6</sup> next cummyng. And vpon this ordre the said inhabitautes here appiering be licenced to departe and goo home, and soo they be discharged of their apparunce. But they be commaunded to leue with their attournaye autorite in their absence to abide suche furder ordre as shalbe taken by the Lorde Chauncellour and other of the kinges moost honourable counsaill.

<sup>1</sup> S.C.P. Hen. 8, Bundle xvii. No. 396.

<sup>2</sup> 1530.

<sup>3</sup> See H, p. 25, n. 2, supra.

<sup>4</sup> 'Walter Luke is said to have advanced himself in the world by marrying the nurse of Henry 8, with whom he received an estate at Cople, in Bedfordshire. Her name was Anne, and she is described in the Visitation of Huntingdon in 1613 as the daughter and heir of Launceclin of Launce-linsbury, in that county, and the widow of William Oxenbridge' (E. Foss, 'Lives of the Judges' [1857], v. 189). He was an Utter Barrister of the Middle Temple in 1502 ('Middle Temple Records,' i. 2); Reader in 1514 and 1520. According to Foss he practised in Chancery. He was called serjeant in 1531, and on August 23, 1532, was knighted and made a justice of the King's Bench. He died in 1544, and was buried in Cople Church, where there is an effigy of him on a brass plate. His only son, Nicholas, became a Baron of the Exchequer under Elizabeth (Foss, l.c.). He appears to have owned land in Northamptonshire,

for he alienated the manor of Byfield to Michael Fisher and Margaret his wife in 3 Hen. 8 (1511) (Bridges, i. 108). In his will, however, he is only described as of 'Coupull, Bedford' (J. C. C. Smith, 'Index to Canterbury Wills'). On the N. side of the chancel of Cople Church are corbels of angels bearing shields having the device of Sir Walter Luke, a hat with the word 'ley' (law), said to indicate a privilege granted to him by Henry 8 of wearing his hat in the royal presence (J. Murray, 'Handbook to Bedfordshire' [1895], p. 165). From Woodcnd, which was Luke's house, about a mile S. of Cople, by way of Bedford through Higham Ferrers to Thingden, would be under 25 miles. The selection of Luke, though living in another county, as a commissioner is an indication of the accurate knowledge on the part of the Government of the residences of its magistrates.

<sup>5</sup> Deceniber 3, 1529. Cf. N, p. 45, supra.

<sup>6</sup> February 3, 1531. Altered from Hillarii. 'Crastino Hillarii' would have been January 14.

T.<sup>1</sup> Interrogatoryes for the parte of John Moulsho Esquier.

1530 Furst whether the Abbott of Croxton procuryd the tenauntes of Thingdon to labor to Thomas lord Cardynall to Throwdowne the hedges dyches and Closis of the said John Mulsho at Thingdon or not.

Item whether the said Abbott Requiryd Richard Clarke gentleman discessid <sup>2</sup> or Thomas Waldram gentleman <sup>3</sup> or any of them to labor and to make Some Meanes to Master Wygston <sup>4</sup> and other that the saide hedges and dyches myght be throwne downe or nott.

Item whether the said Abbott hathe Borne any costes or payde any Monaye to Any learnyd men or to other for the same purpose or not.

Item whether the said Abbott hathe borne parte of the costes of the tenauntes of Thingdon at London for the same purpose or not.

Item How Many Acres the Closis newly Inclosid by the said Mulsho accordyng to the decre <sup>5</sup> conteyne and come to.

Item what the said Mulsho payde for euery Acre dychyng and for euery Acre therof hedging and for the quickesettyng of the same.<sup>6</sup>

Item what it hath cost the said Mulsho for the Thornes and woode necessary for the same.<sup>7</sup>

Item what the hole charges therof hathe coste the said Mulsho.

U.<sup>8</sup> To the kyng our soueraign lorde.

1538 In most humble wyse shewyth and compleanyth vnto your heighnes your trew and faythefull subiecte Thomas Moulsho of Thyngden

<sup>1</sup> S.C.P. Hen. 8, Bundle xxx. No. 138. Probably belonging to Michaelmas Term, 1530, as may be inferred from the fixture of February 3 as the day of the commissioners' return.

<sup>2</sup> A family of this name held the manor of Watford, in the west of the county, and 'Mr. Clarke of Northamptonshire' contributed 100*l.* towards the loan of 1522. L. and P. Hen. 8, iii. p. 1049. But no person of these names appears to have been recently on the commission of the peace for the county. There was, however, another person of the same name, a member of Lincoln's Inn (ib. iv. 1082) and belonging to Lincolnshire, who is frequently mentioned in the Letters and Papers, being a magistrate for Lincolnshire, and constantly occupied in official employments. In a writ of 'supersedeas' of proceedings for inclosure in 1519 Richard Clarke, a tenant of the Abbey of Croyland, is mentioned as living in the hamlet of Elmyng-

ton, in the parish of Oundell, and as having depopulated the rest of the hamlet, consisting of six other messuages, by inclosure and conversion to pasture ('Domesday of Inclosures,' 1517, ii. 483).

<sup>3</sup> There was a Waldran Hall in Nunton, but not a family of the name (Bridges, ii. 527). But this person may have been Thomas Waldron, lord of the manor of Oadby, Leicestershire, 28½ miles N.W. of Thingden (J. Nichols, 'Hist. of Leicestershire' [1810], iv. i. 325).

<sup>4</sup> Roger Wygston, Wigeston, &c., the commissioner of 1528. See I, p. 30, n. 11, *supra*.

<sup>5</sup> That is, the decree of December 3, 1529. See N, p. 45, *supra*.

<sup>6</sup> Three successive chapters of Fitzherbert's 'Boke of Husbandrie' are headed 'To get Settes and set them'; 'To make a Dyche'; 'To make a Hedge' (pp. 71-73).

<sup>7</sup> Cf. M, p. 38, n. 8, *supra*.

<sup>8</sup> S.C.P. Hen. 8, Bundle xxviii. No. 133.



in the county of Northampton gentylman <sup>2</sup> that where oon John Moulsho of Thyngden aforesaide esquire was seasid of and in the Manour of Thyngden wyth thappurtenaunces in Thingden in the saide county of Northampton in hys demeane as of Fee by good and juste tytle and lawfull conueans <sup>3</sup> therof to hym hadd and made And he so being therof seasid of the same dyede by protestacyon seasid <sup>4</sup> after whos deathe the same premissis descendyd and Came and of right ought to dyscend and come vnto your saide subiecte as cosyn <sup>5</sup> and heire to the same John that is to saye sonne and heire of Roberte <sup>6</sup> sonne and heire of the saide John within which towne of Thingden is and hathe byn out of tyme of mynde dyuers and many cobby holders which holde their londes within the same towne by cobby of courte Roule at the wyll of the lord <sup>7</sup> of the saide manour after the custome of the same manour of Thingden and out of tyme of mynde within the same manour it is and hathe byn vsyd that after the deathe of euery of the saide cobbyholders within the same and after euery Alyenacyon to be

<sup>2</sup> This style may signify that Thomas Mulsho, not having been qualified by official dignity as a Justice of the Peace or High Sheriff, does not regard himself as entitled to the style 'esquire' (see p. 312 n. 25). He first appears in a muster roll returned by Sir Edward Mountague, Richard Humfrey and John Lane, commissioners of musters in 1539, as able to bring into the field 16 men (L. and P. Hen. 8, xiv. i. p. 283). This is a very different figure from the 200 which, according to Henry Selby in his bill of complaint to the Court of Requests in 1534, Thingden had been able to furnish (see Append. p. 326). But he was not enrolled on the commission of the peace for the county till November 23, 1543, five years after this suit (L. and P. xx. i. 622). On December 21, 1543, he was appointed a commissioner of gaol delivery for Northampton Castle (ib.). His name does not elsewhere occur in the Letters and Papers either of Henry 8 or of succeeding reigns.

<sup>3</sup> Conveyance.

<sup>4</sup> 'Protestation is a defence of safeguard to the party which maketh it from being concluded by the act he is about to do, that issue cannot be joined by it. Plowd. fol. 273.' Cowel, 'Interpreter,' s.v. The application of it here will be seen in the answer of John Mulsho to Henry Selby's bill in the Court of Requests in 1534, in which the defendant says that 'the said Henry hathe ever sythen (that is, since the award of the commissioners in 1528) kept and yet dothe' the premises in dispute (Append.

p. 316). Thomas Mulsho, therefore, does not venture to say that John Mulsho was actually seised of them. See 2 Saunders Rep. [103] n. (1) in *Holditch v. Otway*. 'When a man pleads anything which he dares not directly affirm . . . as if in conveying' (i.e. deducing or tracing) 'to himself by his plea a title to land the defendant ought to plead divers descents from several persons but dares not affirm that they were all seised at the time of their death.'

<sup>5</sup> In reality grandson. 'In legal language formerly often applied to the next of kin or the person to whom one is next of kin, including direct ancestors and descendants more remote than parents and children' (J. A. H. Murray, 'Engl. Diet.' s.v. 'cousin').

<sup>6</sup> The only notice of Robert Mulsho in the Letters and Papers is in iv. ii. 3587. On November 18, 1527, he was appointed one of the commissioners to inquire into the supplies of corn in the county of Northampton (see 'Introd.' p. xxiii). By his will dated May 14, 1536, he ordered his body to be buried before his pew door in Thingden Church, and gave 'the chief of his estate to Elinor his wife and Thomas his son, to be disposed of at their discretions.' He married Elinor, daughter of — Cotton, of Connington (Hunts) (Bridges ii. 259, and see N. H. Nicolas, 'Test. Vetusta' [1826], ii. 551). John Mulsho died in 1535. See A, p. 6, n. 4, supra.

<sup>7</sup> See Introd. p. lxxxii and E, p. 16, n. 4, supra.

made of any of the same cobby holdes within the same the heire of suche tenaunte so dede And he to whome any suche Alyenacyon hathe byn or shalbe made shall come into the next courte to be holdon within the saide Manour of Thingden and then and there require of the lord of the same manour or of hys Styward there for the tyme being to be admytted tenaunte to the same and then and there paye suche Fyne for the same as shalbe reasonably assessed by the saide lord or Styward there for the tyme being And the same John Moulsho so being seaisid of the saide Manuur londes tenementes and other the premissis as is aforesaide John Walter of Thyngden aforesaide husbond Edmond petyte of the same towne and county husbond Richard Broke<sup>8</sup> of the same towne and county husbond Thomas Makernes of the same towne and county husbond John Rosemey of the same towne and county husbond William Walles<sup>9</sup> of the same towne and county husbond and Henry Selby of the same towne and county husbond and dyuers other of the Inhabytauntes of the saide towne and county to the nomber of Forty persones or therabout all which then were and yet byn cobby holders within the same towne and holde their londes of the saide manor by cobby of court roule at the wyll of the lord after the custome of the saide manor in manor and forme aforesaide myndyng the dysinherytaunce of the saide John Moulsho and hys heires onlawfully and Ryotusly assemblid them selffe at Thyngden aforesaide aboute tenne yeres now past that is to saye the Sevyntene Daye of October in the nynetene yere of your most gracyus reign<sup>10</sup> at a Courte holdon by the saide John Moulsho graundfather to your saide Subiecte then being owner of the same manour of Thingden as is aforesaide And the saide John Walter and other the saide ryotus persones myndyng the dysinherytaunce of the saide John and hys heires and to moue Stryff and debate by ther comon assentes confederaces and ofton metynges and Assembles deuised and at the same courte onlawfully<sup>11</sup> procurid the saide Henry Selby And the same Henry Selby then by their onlawfull procurement came into the same courte and prayde to be admyttyd to a mese and

<sup>8</sup> This name has not previously been mentioned.

<sup>9</sup> This name has not previously been mentioned. This and the name of Richard Broke are perhaps mistakes for Henry Broke, who in 1534 gave evidence adverse to John Mulsho before the commissioners of the Court of Requests (Append. p. 330), and Edmund Walles, twice named as de-

fendant in John Mulsho's bill of 1529 against the inhabitants of Thingden (M, pp. 41, 42, supra). However this may be, neither Richard nor Henry Broke's name occurs there.

<sup>10</sup> 1527. See E, p. 17, n. 13, supra.

<sup>11</sup> That is, as by 'maintenance,' as is presently expressed. See M, p. 44, n. 41, supra.

halff yerd lond and a Close callid grymes close which oon John Selby father to the same Henry helde of the saide manour by cobby of court roule at the wyll of the lorde after the saide custome of the saide Manour of Thingdon And also the same Henry by the saide onlawfull procurement offeryd to the said John Moulsho and hys Styward there for hys Fyne but only oon yeres rente of the londe which was for the saide mese two pence and for the saide halff yerd lond Fyve shylynges and for the saide close Thre halffe pence <sup>12</sup> And also the same Henry affermyd and saide that all the cobby holders within the saide manour ought to paye their Fyne sartayne that is to saye the rent of the londe And not to pay their Fyne at the wyll of the lorde of the same manour And the same Henry Selby by their saide onlawfull procurement then utterly refusid to paye suche Fyne for the same as was then reasonably assessid by the saide lorde and hys Styward <sup>13</sup> there after the Accustomyd manor which Fyne was assessid at Thorty shylynges. And also by the onlawfull mayntenaunce of the saide Ryotus and mysruelyd persones the same Henry Selby Facyd <sup>14</sup> and Braggyd <sup>15</sup> the saide John Moulsho and hys Stywarde there in the opon courte with most cruell wordes that the lyke therof hathe not byn sene And to Further their saide mallyceus intende and utterly myndyng to dysinheryte the saide John Moulsho and hys heires for euer onlawfully mallyceusly and iniustly procuryd the same Henry Selby at their common chargys and comon pursse <sup>16</sup> to exhybyte aswell dyuers bylles of complaynt agaynst the saide John moulsho in hys lyffe and also agaynst your said Subiecte Syns the deathe of the same John in the Starre Chaumber chauncery whyght halle <sup>17</sup> And also to bryng a wrytt of Monstrauerunt agaynst the same John moulsho <sup>18</sup> aswell in the name of the saide Henry as in the name of the saide Ryotus persones and other inhabytauntes within the same towne intending by their mighte being a greate number <sup>19</sup> and by long sute

<sup>12</sup> These statements are in accord with those of John Mulsho in his answer to Henry Selby's bill in the Court of Requests in 1534. (See Append. p. 318.)

<sup>13</sup> See Introd. pp. lxiii-lxiv.

<sup>14</sup> See *Abbot of Peterborough v. Power*, p. 126, n. 22.

<sup>15</sup> 'Brag, to defy proudly, challenge; also to bully, threaten.' J. A. H. Murray, 'Engl. Dict.'

<sup>16</sup> See M, p. 44, n. 41, supra.

<sup>17</sup> The bill in the Star Chamber is presumably Henry Selby's against John Mulsho in 1528. See F, p. 18, supra; those in Chancery are the same against the same (1)

in 1529 (p. 317), (2) against Thomas Mulsho in 1537 (p. 61); that in 'Whyghthalle' is the bill of the same against John Mulsho in the Court of Requests in 1534 (Append. p. 307). Shortly before this time that Court began to be called 'The King's Court in Whitehall' (see 'Select Cases in the Court of Requests' [1898], xiv, xv.). It is probable that before judgement was delivered in this cause John Mulsho died and Thomas Mulsho was substituted as defendant.

<sup>18</sup> That was in Lent, 1531. See Append. p. 321; and Introd. p. lxxx.

<sup>19</sup> 'The writ (Monstraverunt) was a very peculiar one, in fact quite unlike any other



and greate exclamacyons to wery the saide John Moulsho being A poure gentylman and vtterly to vndo hym And for the furthuraunce of their saide most cruell and mallycyus intente and propose <sup>20</sup> ryotusly onlawfully agaynst your lawes and peace and in most cruell maner the same John Walter and other the saide Ryotus persones Ryotusly assemblid them selff at Thingden aforesaid the xxviiij<sup>th</sup> daye of February in the xx yere <sup>21</sup> of your most gracyus reign And also at Northampton the xxv<sup>th</sup> daye of February in the xxv<sup>th</sup> yere <sup>22</sup> of your most gracyus reign and dyuers other tymes and places And then and there onlawfully and agaynst your lawes and peace gatherid monay and made a common pursse among them selff and with the same onlawfully and agaynst your lawes mayntenyd the saide Henry Selby as Avaunt parler <sup>23</sup> for theim in hys iniust sutes agaynst the same John Moulsho and also syns hys deathe agaynst your poure subiecte And the saide John mulsho after long and Chargable Sute to the vndoing of the same John moulsho prouid aswell the effecte of all the bylles as also the saide wrytt of Monstrauerunt brought and exhybyte agaynst the same John moulsho by the same Henry Selby and other to be vtterly Faulse and ontreu and the same were founde prouid and tryede <sup>24</sup> for the parte of the saide Moulsho as by dyuers decres in thys honorable courte of Starr Chaumber the court of Chauncery and Whytehalle remaynyng And also by the recordes of the common lawe remaynyng of record vpon the tryall in the saide wrytt of monstrauerunt it dothe and may manyfestly appeare And the saide John Walter Henry Selby and other before namyd not yet contentyd of ther further malycyus myndes intendyng vtterly to ondoo your saide poure Subiecte and to wery hym with expensys at the lawe efteons <sup>25</sup> procurid the saide Henry Selby And the same Henry Selby by their iniust procurement dyd exhybyte oon other byll of compleynt to the right honorable sir Thomas Audely knyght now lord Chauncelor of Englund <sup>26</sup> agaynst the saide Thomas Moulsho your saide subiecte surmysyng by the same byll that out of tyme wherof mynde of manne is not to the contrary

writ. The common-law rule that each tenant in severalty has to plead for himself did not apply to it: all join for saving of charges, albeit they be several tenants. What is more, one tenant could sue for the rest and his recovery profited them all. . . . These exceptional features were evidently meant to facilitate the action of humble people against a powerful magnate.' Fitzherbert, 'Abr. Monstraverunt,' 5 (P. 19, Ed. 3). P. Vinogradoff, 'Villainage in England' (1892), p. 101.

<sup>20</sup> Purpose.

<sup>21</sup> 1529.

<sup>22</sup> 1534.

<sup>23</sup> A compound not noticed in Murray's 'Engl. Dict.'

<sup>24</sup> The sense of the phrase seems to be 'tried and found proved.'

<sup>25</sup> Sic, for eftsones, compounded of the obsolete adverb 'eft,' again, and 'soon,' and meaning again, soon afterwards (J. A. H. Murray, 'Engl. Dict.,' s.v. Eftsoon).

<sup>26</sup> See Append. p. 322, n. 48.

ther hathe byn suche custome within the saide manour of Thingden that if any of the tenauntes of the saide Manour dyede seasid of any londes and tenementes holdon of the saide Manor by copy of courte roule hys heire which shuld Inheryte and haue the same londes and tenementes by the saide custome shuld paye to the lorde asmoche for a fyne at their fyrst entre as the yerely rent of the same lond is and nomore And further faynyd in the same byll that where as the saide John Selby father to the saide Henry Selby was seasid in Fee accordyng to the custome of the saide manour of oon mese and a halff yerd lond and a close callyd grymes close in the towne of Thingden being auncyent demeane and holdon of the saide Manour by copy which mese rentyth by yere to the lorde<sup>27</sup> two pence and the halff yerd lond Fyve shylynges and the saide close thre halff pence by the yere And that the saide John Selby so being of the premissis seasid dyede therof seasid after whos deathe the same londes and tenementes dyscendyd and of right ought to dyscend accordyng to the custome of the saide manour to the saide Henry as sonne and heire to the saide John Selby And that he the same Henry after the deathe of the same John Selby tendyd and profferid to the lord then being of the saide Manour hys Fyne accordyng to the custome of the saide manour that is to saye for the saide mese two pence and for the saide halff yerd lond Fyve shylynges and for the saide close thre halffe pence and requiryd to be admyttyd tenaunte to the same. To the which your saide subiecte answeyrd and allegyd that aswell the saide Henry Selby as also all and euery tenaunte and tenauntes of the saide manour which held any lond of the same manour by copy of court roule that they and euery of them held the same of the Lord of the saide manour by copy of court roule at the wyll of the lord after the custome of the saide manour And that the custome of the said Manour is and tyme out of mynde hathe byn that after the deathe of euery tenaunte copy holder that hys next heire shuld come into the next courte at Thyngden to be holdon and pray to be admyttyd as tenaunte to the same copy holde and at the same courte shuld paye suche reasonable Fyne for hys Admyssyon as then and there shuld be reasonably assessid and appoyntyd by the lord of the saide Manour or hys Styward there for the tyme being or els the copy holde to be forfaytyd to the lord of the saide manour and that it shuld be lawfull to the saide Lorde and hys heires there for the tyme being to enter into

<sup>27</sup> That appears to be the chief rent paid to the lord of the Hundred, the Abbot of Peterborough. See Selby's contention in F, p. 18, *supra*.

the same and to retene the same for the same forfature all which matter in the same Answer mencenynd your saide poure Subiecte now complenaunte dyd dewly proue aswell by dyuers and sondry auneynt court roubles custumaryes and other presydenes of the saide courte as by dyuers other proues and tryalls by Accyons tryede at the common lawes agaynst the same Henry wherby all the matter in the byll of compleynt exhibite by the saide Henry was prouid clerely faulse and ontreu And the saide Henry Selby for hys obstynacy and hys wylfulness and for that he hadd troblid the saide Thomas Moulsho and hys auncetors aswell in the same courte of chauncery as in dyuers other courtes as is aforesaid was by the said lord chaunceler and the hole courte of chauncery comytted to the Flete<sup>28</sup> where he remaynyd a sertayne tyme And for somuche as the saide Henry Selby hadd forfatyd hys saide mese close and lond to your saide subiecte aswell for that he would not pay hys Fyne at the wyll of the lord and of hys Styward after the custome of the saide Manour for hys Admyssyon to the same And for that he neuer paide rente for the same by the space of Twelue yeres and for dyuers other causys and forfatures<sup>29</sup> by meane wherof your saide subiecte seasid the saide mese close and londe into hys owne hande Yett in consideracyon that the saide Henry Selby was a very poure Manne and then humbly commytted and submytted hym selff to the order of the saide courte of Chauncery then being sory as he then surmysyd for hys iniust vexacyon which he hadd putt your saide poure Subiecte vnto and hys saide Auncetors It was by the saide lord chaunceler and the hole courte of chauncery

<sup>28</sup> His second imprisonment there. See Append. p. 318 and n. 30.

<sup>29</sup> Tested by the law as laid down by Coke and the Elizabethan judges, this is a disputable proposition, and so the Court of Chancery would seem to have held. Coke ('Abridgment of Reports,' ed. Sir T. Ireland, 1657, p. 121) gives the judgement in 'Hubbard and Hammond's ease, 42 & 43 of the Queen (Elizabeth, 1599-1600), fol. 27,' as follows: 'Resolved, That if the Fines of Copyholders upon admittances be ineertain, the Lord cannot exact excessive and unreasonable fines; if he does, the Copy-holder may deny to pay it, without forfeiture, and it shall be determined before the Judges, upon a demurrer, or evidene upon proof of the value of the land what fine was reasonable to be demanded.' Again, in Tavernor's case, 'Resolved, That no fine is due to the Lord till admittance; for admittance is the cause of the fine, and if after the tenant

deny to pay it, 'tis a forfeiture. Baeon and Flatman's cases, and Sands case so resolved.' As to the first point, it was Mulsho's contention that his fines were uncertain, Selby's that they were certain because the manor was in Ancient Demesne. This last question appears so far to have occupied the attention of the Courts, when not concerned with the other issue of the inclosures, but whether the fine was reasonable, or not, does not seem to have been decided. As to the second point, it is common ground that Selby was denied admittance; *ergo*, no forfeiture. And as he was not admitted, he was not liable for rent, being no tenant. The fact, no doubt, is that, rightly or wrongly, public opinion in Thingden was so incensed against Mulsho that he was unable to maintain Selby's eviction, as we know from John Mulsho's answer to his bill in the Court of Requests in 1534 (Append. pp. 315, 316).



orderyd and decrede that your saide subiecte shuld from thensforthe be clerely dismyssyd dismytne<sup>30</sup> out of the saide courte of chauncery and that your saide Subiecte nor hys heires shuld not at any tyme hereafter be suide within the same courte nor any other courte<sup>31</sup> by the same Henry Selby nor any other persone or persones by hys procurement for the same premissis And further by the same lord chaunceler and the courte of chauncery it was decrede that if the saide Henry Selby at the next courte of your saide subiecte to be holdon within the saide Towne of Thingdon dyd oponly then and there confes before your saide subiecte and hys Styward ther and the most parte of the tenautes of the same towne that he the same Henry did wrongfully seu vex and trouble your saide subiecte and hys Auncetors in an ontreu and false cause and tyle And then and there aske of your said subiecte foryeuenes vpon hys knes for the same and require the Styward of the same courte for to enter hys Submyssyon in the roubles of the same courte to be an Insample for lyke offenders hereafter And then and there paye suche Fyne for the same as shuld be by your said Subiecte or hys Styward assessyd And also Forty shyllinges in full dyscharge and recompence of the arreragys of the rente deu for the same mese lond and close For twelve yeres<sup>32</sup> that then the said Henry shuld in the same courte take the saide mese lond and close by copy of court roule of your saide Subiecte at the wyll of the lord after the custome of the manour prouid by your Subiecte in the open courte there as by the same decre ready to be shewyd Among other thynges more at large it dothe and may appeare And after your

<sup>30</sup> Sic; apparently an attempt by an afterthought to frame a past passive participle 'dismissen.'

<sup>31</sup> Quære, whether such a decree was made by the Court of Chancery and, if so, whether it would not constitute a violation of the Great Charter. Coke, in commenting on chapter 29 of the Charter of Henry 3, 'nulli negabimus aut differemus justitiam, vel rectum,' lays down the interpretation of it accepted in his day as follows: 'And, therefore, every subject of this realme, for injury done to him in bonis, terris, vel persona, by any other subject . . . without exception, may take his remedy by the course of the law, and have justice and right for the injury done to him, freely without sale, fully without any deniall, and speedily without delay. . . . These words have beene excellently expounded by latter acts of parliament, that by no meanes common right, or common law should be disturbed, or delayed, no though it be com-

manded under the great seale, or privie seale, order, writ, letters, message, or commandement whatsoever either from the king, or any other, and that the justices shall proceede, as if no such writs, letters, order, message or other commandement were come to them' (2 Inst. 56). If such a decree were really made, both it and Coke's language suggest that conflict between Chancery and Common Law which so long marked the history of English legal procedure.

<sup>32</sup> If, as stated by Selby in E (p. 17, supra), his rent due to Mulsho amounted to 6s. 3½d. a year, the total twelve years' rent due would amount to 3l. 15s. 6d. Interest, it may be explained, was not considered, being at this time illegal and not legalized till 1545 (37 Hen. 8, c. 9). But the reduction by more than 50 per cent. of the arrears of rent due is an indication of the opinion of the Court as to the reasonableness of the fine demanded by Mulsho.

saide Subiecte requiryd a courte to be kepte at Thingden aforesaide by Edward Mountagu oon of your Seriauntes at the Lawe and Styward of the said manour the nyneth daye of January in the xxix<sup>th</sup> yere of your most noble reign<sup>33</sup> And after the saide courte was warnyd by your saide subiecte and before the daye of the keping therof that is to saye the Fyrst daye of the same Moneth of January last past the saide John Walter Henry Selby and other the saide Ryotus persones before namyd with dyuers other persones to the nomber of Forty persones whos names be to your saide subiecte onsertayne at Thingden aforesaide Ryotusly confederate and assemblyd them selffe And then and there not regardyng any order here tofore taken in that behalff ne yet the decre aforesaid but malycyusly myndyng to ondoo your saide subiecte being a poure yong manne Ryotusly onlawfully and obstynately counceyld to gether to dysobey and breke the saide decre and to vex and trouble the saide complenaunte and by their common Assent agrede among them selff that the saide Henry Selby shuld at the same courte renounce and forsake the decre and order made by my said lord chauncelor and the courte of chauncery and all other decres and orders before thys tyme made and to Stycke to hys and their sensuall<sup>34</sup> demaundes and their onlawfull opynyons And at the same courte the saide Edward Mountagu being styward there aswell in the presens of your saide subiecte and Richard

<sup>33</sup> 1538.

<sup>34</sup> Qu. in the scense of 'greedy.'

<sup>35</sup> Richard Humfray, or Humfrey, was eldest son and heir of William Humfray, lord of the manor of Barton-Segrave, by Maud, daughter of Richard Knightley, of Fawsley, both in Northants (Bridges, ii. 218). He is first mentioned in the 'Letters and Papers' of Henry 8, when appointed a commissioner of subsidy for the county in 1523 (L. and P. iii. p. 1366; ib. iv. p. 238). In December of the following year he was placed upon the Commission of the Peace for the Connty, and in subsequent years (ib. iv. 961, 12). At the time of the famine of 1527 he was one of the commissioners for the county to inquire into the supply of corn (ib. 3587, 2, ii.). In April 1531 he obtained from the Crown a licence to marry Isabella, widow of William Tanfeld, presumably a tenant in capite. She was the daughter of — Staveley, of Bignell, Bucks (Bridges, i. 263; L. and P. v. p. 105, n.). In 1534 the rector of Barton Segrave, John Bonde, who had been presented to the living on March 6, 1481 (Bridges, ii. 220), having

expressed himself censoriously of the King and Queen Anne Bolcyn, had been reported to Cromwell, and was examined by Humfray. On October 30, 1534, Humfray writes to Cromwell that he had committed Bonde 'to ward,' but that as he was 'the oldest man in this realm,' he had taken care that he should be comfortably housed by the jailer (L. and P. vii. 1330). He was appointed a commissioner of jail delivery for Northampton Castle on November 22, 1537 (ib. xii. ii. 1150, 28), and again in December 1539 (ib. xiv. ii. 780, 41). His zeal for the Government was recognised in his appointment in 1539 as a commissioner of musters for Northants, to enlist troops for defence against foreign invasion (ib. xiv. i. 652). He himself undertook to furnish six men from Barton (ib. p. 283). In September 1540 he was nominated a commissioner of sewers for Northants and adjoining counties (ib. xvi. 107, 7), and a commissioner of oyer and terminer for the Midland Circuit in February 1543 (ib. xviii. i. 226, 9) and in 1544 (ib. xx. i. p. 312). His name appears on a list of gentry of Northants



Humfray<sup>35</sup> esquire John Gale John Lenton<sup>36</sup> Roberte Latelyne Richard Fosbroke<sup>37</sup> and John Burton<sup>38</sup> gentylmen Thomas Stokes<sup>39</sup> and Henry Broune clarkes and dyuers other persones as also in the presens of the most parte of the Inhabytauntes of the same towne of Thingden dyuers and sondry tymes redd oponly the saide decre there oponly in the same courte And the saide Edward and Thomas Moulsho complenaunte oponly offerid to performe and obey the same decre in all poyntes for their partes And then and there requiryd the saide Henry Selby for hys parte to obserue performe fulfill and kepe the same which to doo the same Henry by the onlawfull procurement councell and Abetment oponly contemptuously and vtterly then and there refusid Renounceyd and forsakyd Answering to the saide Styward and complenaunte that he would not obserue the same for it was to harde for hym to abyde. And not yet contentyd the same John Walter and other before namyd and dyuers other then being Sworne vpon the Inquest<sup>40</sup> in the same courte, by the mayntenance of the other copy holders there not only Ryotusly cam into the saide courte, but also then and there obstynately and Ryotusly refusid to make any presentment, nor would make no presentment nother consernyng the lete<sup>41</sup> nor courte onless the

prepared to furnish men for servise with the army against Franee in 1544 (ib. xix. i. p. 153), and in 1546 he was again a commissioner of musters for the county (ib. xxi. p. 41). In 1544-46 he was appointed escheator of Northants and Rutland, and the purchase by him of the advowson of and tenements in Isham, about two miles W. of Burton Latimer, in 37 Hen. 8 (April 22, 1545-April 21, 1546) may have been paid for out of the profits of the office (Bridges, ii. 107). He purchased the manor of Batsaddle in Orlingbury, about 3½ miles across country, on the west of Thingden, in 5 Philip and Mary (1558) (ib. 120). He died seised also of the manor of Burton Latimer, the next village to the N.-W. of Thingden, which has already been mentioned (see p. 46, n. 9). His seat at Barton Segrave was six miles N.N.W. of Thingden. He may, therefore, be said to have held the manors immediately to the west of Thingden. He was also lord of the manor of Swebston, Leicestershire (J. Nichols, 'Hist. of Leicestershire,' iii. 1050). His will was proved in 1557 (J. C. C. Smith, 'Index to Canterbury Wills').

<sup>35</sup> This was perhaps John Lenton, son and heir of Thomas Lenton, lord of the manor of Woodford, some 3½ miles N.E.

of Thingden, which John inherited in 20 Henry 7 (August 22, 1504-August 21, 1505). He died in 1558 (Bridges, ii. 266).

<sup>37</sup> A family of this name held the manor of Cranford, 1½ miles E. of Barton Segrave (Bridges, ii. 227).

<sup>38</sup> This is perhaps John Burton, who died this year, lord of the manor of Hale, in Brigstock, about eight miles N. of Thingden (Bridges, ii. 288).

<sup>39</sup> Thomas Stokes was rector of Cranford, to which living he had been presented by John Mulsho in 1509 (Bridges, ii. 228). From the above names, &c., it will be seen that the neighbouring gentry were present.

<sup>40</sup> The jury of the manor court.

<sup>41</sup> The court leet was the police court of the manor. 'The lord who had this franchise claimed to swear in a body of jurors . . . and to put before them those same "articles of the view" ("capitula visus") which the sheriff employed in his "turn."' The minor offences were punished on the spot by amercements which went to swell the lord's revenue' (Pollock and Maitland, 'Hist. of English Law' [1895], i. 568). This was probably the reason why the mutinous tenants would make no presentments.



saide Styward would enter a Surrender brought in by Thomas makernes of a mease and a yerd and a halff of lond which is copy hold and holdon at the wyll of the lord after the custome of the said manour, in theys wordes. Here comyth Thomas Knyght by Thomas makernes desyner<sup>42</sup> and Surrenderyth into the lord handes in Socceage<sup>43</sup> in Auncyent demeane and not at the wyll of the lord nor after the custome of the manour a mese and a yerd lond and a halff to thuse of Thomas Walles where there is not nor neuer was any suche forme of entre nor custome in the same courte. And for somoche as the Styward nor hys clark would not enter the same in that forme they would make no presentment nor doo any other thing consernyng the same courte wherby the Styward was Fayne to departe without any verdett and lett theim alone for daunger of Brekyng of your most gracyus peace which the said malyceus and ryotus persones were bent to doo if they myght haue hadd any occasyon to the same in moste perelus insample of all other Ryotus persones if condyng punyshement be not prouidid for them in thys behalff In consideracyon wherof it may please your highnes the premissis considerid to graunte your most gracyus wryttes of Sub pena to be directyd vnto the said John Walter Henry Selby and other before namyd commaundyng them by the same personally to Appere before your highnes or<sup>44</sup> your most honorable counsell in your high courte of Starre chaumber at a sertayne day and vnder a sertayne payne in the same by your highnes to be lymtyd they then and there to Answer to the premissis and your said subjecte shall dayly pray for the prosperus contynuans of your heighnes long to endure.

*Indorsed in a later hand.* Moulsho v. Walter et al.

<sup>42</sup> See Abbot of Peterborough v. Pewer, p. 123, n. 6, where also the conduct of the tenants was similar.

<sup>43</sup> See Introd. p. lxxii, lxxxii.

<sup>44</sup> This alternative form is unusual. There is only one example of it in 'Select Cases in the Star Chamber' (1902), viz. en

p. 265, where is one example of a prayer that the defendant may be called before the king; two, that he may be called before the Council; three, that he may be called before the Chancellor. Eighteen petitions pray that he may be called before the king and Council. See Introd. pp. xvii-xix.

NEWCASTLE, MAYOR, ALDERMEN AND COMMONALTY OF v.  
JOHN STANWELL, PRIOR OF TYNEMOUTH.<sup>1</sup>

1510 Humbly compleynyng sheweth to your most graciouse highnes your dayly Oratours and subgettes the meyer Aldermen & Commonaltie of youre Towne of Newcastle vppon Tyne Where your grace is [seised]<sup>2</sup> of the seid Towne with thappurtenaunces and of the Porte and haven of the same in your demeane as of Fee in Ryght of your Crowne of Englund, The which towne & porte your seid Orators and ther predecessours have hadd and have in fee ferme<sup>3</sup> of the grauntes of your most noble progenitours Kynges of Englund<sup>4</sup> tyme out of mynde with many great and diverse Customes Franchises and liberties to the same Towne and Porte appurteynyng Whiche they have allwey hadd and peasibly enioyed to nowe of late that oon John Stanwell Priour of Tynemowthe<sup>5</sup> of his Froward & vngraciouse disposicion nott dredyng god your grace or your lawes subtilly imagynyng the distrueccion decay and desolacion of the same Towne & Porte Fully mynded to disherite your grace of your right title<sup>6</sup> and dueties bylongyng to your highnes within the same Towne & porte of his greatt myght & extort power for that the seid priorie is sett and standeth from the seid Town of Newcastle by the space of viij myles in the mowthe of the seid porte beyng a myghty strong holde & Fortelett,<sup>6</sup> by which priorie all shippes looded with merchandises intendencyng to your seid Town comyng in or goyng owt of your seid porte must nedes passe & repasse and by none other wayes of late hath subtilly & Forcibly accroched to hym greatt quantyte of grounde within the seid porte & haven<sup>7</sup> and theruppon hath rered

<sup>1</sup> S.C.P. Hen. 8, Bde. xx. No. 2. Introd. p. xciii.

<sup>2</sup> Conjectural: MS. rubbed.

<sup>3</sup> "Feudi firma" . . . signifieth in a legal sense land held of another in fee, that is, in perpetuity to himself and his heir for so much yearly Rent as it is reasonably worth, more or less, so it be the fourth part of the worth, without homage, fealty, or other services other than be specially comprised in the feoffment.' Cowel, 'Interpr.' s.v. 'It is called a fee-farme because a farme-rent is reserved upon a grant in fee' (Coke, 2 'Inst.' p. 44).

<sup>4</sup> By a charter dated February 5, 1214, King John raised the fee farm of Newcastle from 60*l.*, it having originally stood at 50*l.*, to 100*l.*; and this was confirmed by subsequent sovereigns.

<sup>5</sup> According to W. S. Gibson ('History of the Monastery of Tynemouth' [1847], ii, 89, 90), John Stanwell, Stonywell, or Stonewell, became prior in 1505. The

events here set out probably took place in 1510, in which year an attempt upon Prior Stanwell's life was made at Jesmond, a mile and a half north-west of the town (H. Bourne, 'Hist. of Newcastle' [1736], p. 82). The monastery was of the Benedictine Order, a cell of the abbey of St. Alban (Dugdale, 'Monast.' iii. 302).

<sup>6</sup> The priory was fortified in 1296 by licence of the king (H. H. E. Craster, 'Hist. of Northumberland' [1907], viii. 83). The gateway and part of the fortifications are still visible.

<sup>7</sup> According to an inquisition of January 4, 25 Hen. 6 (1447), the priors had at that time eneroached upon four acres at North Sheles (Shields), which they had covered with buildings for the fishing and shipping industries, to the great injury of Newcastle, notwithstanding an injunction of the king's justices in 3 Hen. 3 (1219). The loss to the town was estimated at 6*l.* per annum. The quarrel was, therefore, one of long standing. See

& made diuerse & many wharffes stathes & keyes<sup>8</sup> and vppon them made many howses saltpannes<sup>9</sup> milnes & other buyldynges, and them so made ryottously with greate Compeny forcibly kepeth & vseth to his propre vse Wherby the seide porte is greatly streyted and hurted and like to be distroyed and shippes & other vesselx applyeng the same for straytnes therof oftymes in greate Jeopardie & perill And your grace therby disherited Also wher all maner of Shippes applyeng the same porte owght of Right to charge and discharge att your seid Towne of Newcastle And in none other place bytwene the seid Towne & the See and ther to pay your grace suche dueties tolles & Customes as tyme owt of mynde haue ben hadd and vsed to be payd in tyme of your most noble progenitours the seid vngracious Priour dayly chargeth & dischargeth Shippes and other vesselx att Shelez and Tynemowthe aforseid which be in the mowthe of the seid porte viij myles from your seid Towne with diuerse merchandyses and ther maketh oon new porte & haven<sup>10</sup> and riottously and in forcible maner with greate people dayly occupieth and vseth the same and ther taketh suche dueties as bylong to your grace<sup>11</sup> if the whiche shuld contynewe as god defend as itt is lykly to doo onles your grace provyde Remedie your seid Towne whiche is the chieff Socour & defence of all your contrees therunto adioynyng in tyme of Werre or other Jeopardous besynes shall waxe empty and desolate in so moche as itt is only vppholdyn & meynteigned by concourse of Shippes applyeng<sup>12</sup> the seid porte And your seid poore Oratours whiche pay your grace yerly *C. li.* Fe ferme for the seid Towne & porte shall by measne of the premysses be compelled to gyve upp your seid Town &

J. Brand, 'History of Newcastle-upon-Tyne' (1789) ii. 569; J. Sykes (Newcastle, 1833), Local Records, i. 33; Craster, viii. 285-292. Introd. p. xci, supra.

<sup>8</sup> The above inquisition found that between 1386 and 1429 fourteen staiths had been erected.

<sup>9</sup> It appears from a lease by Prior Blakeney, who succeeded Prior Stanwell, dated December 30, 1530, that the monastery farmed out four salt-pans at North Shields (R. Welford, 'Hist. of Newcastle' [1885], ii. 164).

<sup>10</sup> Called 'Prior's Haven'; but in 1290 the prior had been charged before Parliament with having constructed a new port, which had deprived the king of the dues taken by him at Newcastle (Rot. Parl. i. 26). Judgement was given against him in 1292, and shipowners were forbidden to load and unload at Shields (Craster, 79, 288).

<sup>11</sup> These were set out in the trial of

1290 as 'furnage,' that is, 4*d.* on every quarter of wheat baked for sale, amounting to 10*l.* yearly, besides Newcastle town dues to the same sum; 'prisage,' i.e. two casks of wine to be taken from before and behind the mast, at 20*s.* a cask; a hundred herrings out of each herring boat; a hundred haddocks out of each boat laden with haddocks, this last valued at 6*d.*; the best fish in each boat at 1*d.*; 4*d.* for every boat with oars, and 1*d.* for every smaller boat ascending the river to Newcastle, which the prior forced to discharge on his own land, to the injury of town and king alike (Rot. Parl. i. 26). Ships of larger tonnage than was capable of being propelled by oars were in 1290 apparently unable to discharge in the old Prior's Haven; hence the 'new porte & haven.'

<sup>12</sup> Generally followed by 'to.' This use of the word is not noticed in Murray's (the Oxford) Dictionary.



porte in to your handes as not able lenger to pay the seid Fee ferme seying the seid priour by thoccasions aforesaid withdraweth suche dueties as they of Right owght to take & perceyue for payment of the seid Fe ferme for euery shippe comyng in or goyng owt of the seid porte with merchaundises looded your grace owght of right to have xvj<sup>d</sup> for that the seid priour riottously defendeth them in takyng therof by reason of the seid dischargyng & chargyng of shippes att Tyne-mowthe & Sheles<sup>13</sup> aforesaid. Also the seid priour dayly maketh Fysch garthes & weeres for takyng of salmons in the seid haven between the seid Town of Newcastle and the see and yerly remeved them from place to place att his pleasur, by reason wherof the seid porte is so wrekked & shallowed that wher in tyme past shippes of Foure or fyve of tyme the same haven and Towne shall be vtterly vndone for euer hundred tonne weght myght haue com to the Brydge before your seid Town, ther can non come now but smale vessels. And if he so shuld be suffred to vse the seid Fyschegarthes & weeres in shorte processe Also wher a Frenche shippe by distres of wether was dryven in to the seid haven looded with the goodes of Scottes men & Frenche men the seid Priour in Ryottouse maner with greate force sent xl of his seruauntes & tenauntes in to the same Shippe and ther toke greate goodes from the seid estraungers to the value of cc. li. & aboue, whiche goodes remayne in his handes<sup>14</sup> Wheruppon the meyer of your seid Towne for that the seid Shippe was within the libertie of your seid Towne sent oon John Yong sergeaunt att the mace<sup>15</sup> within the seid Towne to the seid Priour commaundyng hym in your most graciouse name to delyver the seid goodes to the owners therof which to do he then refused and in riottous wise the seid Priour and his seruauntes tooke your seid sergeaunt & put hym in a strong prison<sup>16</sup> and ther hym

<sup>13</sup> The old spelling, from 'sheales,' little huts (W. Camden, 'Britannia' [ed. R. Gough, 1806], iii. 492).

<sup>14</sup> This appears to have continued a practice of Prior Stanwell, for on November 16, 1527, James 5 of Scotland wrote to Henry 8, demanding restitution to be made to Evangelist Passer, a Neapolitan, factor of a Florentine merchant dwelling at Antwerp, of a sum of 600 ducats with which he was returning to Flanders in a Flemish vessel, when the ship was driven into Tynemouth by stress of weather, and taken by the abbot there. Evangelist delivered up the money to 'one clerk in the abbey callit Maister Doctour,' who refused to return it (L. and P. H. 8, iv. ii. 3582, cp. 3608).

<sup>15</sup> 'There is also a more inferior kind

of Sergeants of the Mace, whereof there is a troop in the city of London and other corporate towns that attend the mayor or other chief officer, both for menial attendance and chiefly for matters of justice. These are called *Servientes ad Clavam*' (J. Cowel, 'Interpreter,' s.v. Sergeant).

<sup>16</sup> By a royal charter dated February 25, 5 John (1204), the priors enjoyed 'infangenetheof' and 'utfangenetheof' in Tyne-mouth and its appurtenances (Dugd. 'Monast.' iii. 314). This would presumably imply a prison; but, according to Coke (2 'Institute,' 43 [ed. 1797]), 'committing to prison is only to this end, that he (the prisoner) may be forth comming to be duly tried, according to the law and custome of the realme.' Coke cites cases of 8 H. 4, 18, the case of the abbot of St. Alban's, and

withheld by the space of oon day ageyn your lawes & peas And to this tyme none of your seid suppliauntes darre comme or conveye eny of ther goodes of merchaundisez owt of this your Royalme in to eny partye of the Frenche nacion for they haue sure knowlege if they doo ther seid goodes shuld be takyn from them in so muche as the seid mysdemeaned Priour tooke the goodes of the seid Estraungers owt of the libertie & Jurisdiccion of your seid Towne Also wher Jolin Yong & Robert herryson then twoo of your sergeauntes att the mace within your seid Towne accordyng to your lawes and Customes ther tyme owt of mynde vsed made attachement of a Shippe within your porte aforeseid and within the Jurisdiccion and liberties of your seid towne one Robert Cressewell servaunt to the seid Priour riottously accompenyed with many lewed & evyll disposed persons to the nombre of xl and aboue riottously & in forcible maner arrayed in hernas<sup>17</sup> with Jakkes<sup>18</sup> brigandynes<sup>19</sup> and salettes<sup>20</sup> with billes<sup>21</sup> bowes & arrowes came in to your seid porte within the liberties and Juresdiccion of your seid Towne and then and ther riottously ageyn your peace and lawes tooke your seid twoo sergeauntes and them riottously ladde & conveyed owt of the seid porte and liberties of your seid Towne by the comaundement of the seid Priour vnto his seid Priorie of Tynemowthe and them ther emprisoned and in so straye prison withelde to suche tyme as the seid Robert herryson beyng in good helthe of bodeye att the tyme of the seid takyng by duresse of the seid enprisonement att Tynemowthe in the prison aforeseid deyed by the seid Priour & his seruauntes maliciously muredred and distroyed as

20 Ed. 4, 6, the case of the abbot of Crowland, showing that detention by the lord of a franchise without trial involved a forfeiture of the franchise. The franchise of the priors of Tynemouth had been forfeited in 1291 upon this very ground, though restored in 1299 (Craster, 80, 83). In the present case it does not appear that the sergeant had committed any offence, he being a mere messenger. His arrest and imprisonment were, therefore, in violation of Magna Charta, c. xxix.: "Nullus liber homo capiatur vel imprisonetur." In 1577 an Exchequer Special Commission reported that in the priory there was a 'little tower used for a prison called the Hye prison' (Craster, p. 149).

<sup>17</sup> 'harness.' The word includes weapons. Cf. 'Lanc. Wills,' i. 153: 'My soune . . . shall have one harnys that ys to saye a plate coote or jacke a sallett . . . and a halbert.' Murray, 'New Eng. Dict.' s.v.

<sup>18</sup> 'Jack,' a kind of sleeveless tunic or jacket formerly worn by foot soldiers and others, usually of leather quilted, and in

later times often pleated with iron' (ib. s.v.).

<sup>19</sup> 'Brigandine' or 'brigander,' body armour for foot soldiers, originally armour for a brigand; composed of iron rings or small thin iron plates sewn upon canvas, linen, or leather, and covered over with similar materials (ib. sub vv.).

<sup>20</sup> In French 'salade,' a light headpiece sometimes worn by the cavalry, but generally by the infantry and archers. It had sometimes a visor, either fixed or moveable, and sometimes grates, but was generally a steel cap, greatly resembling the morion (S. R. Meyrick, 'Ancient Armour' [1824], iii.; Glossary, s.v.).

<sup>21</sup> 'Bill,' an obsolete military weapon, used chiefly by infantry, varying in form from a simple concave blade, with a long wooden handle, to a kind of concave axe with a spike at the back, and its shaft terminating in a spear-head; the halbert was a later variation of this model. It was the weapon of the constables of the watch. Murray, 'New Eng. Dict.' s.v.



itt is openly supposed <sup>22</sup> Also the xvij<sup>th</sup> day of Februarie last past <sup>23</sup> Robert Cressewell Rauff Wederyngton with many other ryottouse & lewedly disposed persons servauntes and tenauntes to the seid Priour to the nombre of Foure score persons and aboue arrayed defensibly in hernas with bowes and arrowes and ageyn the kynges peas abowt twoo of the Clok in the nyght came into the porte of Newcastle within the liberties of the same Towne and by commaundement of the seid Priour wold haue entred a shippe called the Elizabeth loded with merchaundise and Rydyng at ancre within the same porte intendyng to haue murdred the maryners of the same shippe and to haue taken the goodes beyng theryn and to haue drowned <sup>24</sup> the same Shipp And so hadd doon hadd nott the mariners of the same made great and soore defence to the contrarie And dyuerse of the seid mariners by the seid mysdemeaned persons were then and ther soore hurt in greate Jeopardie of ther lyves and hadd ben murdred and the seid shippe drowned and the goodes conveyed if they hadd nott ben shortly rescowed & holpyn by thenhabytauntes of the South Sheeles <sup>25</sup> & other estraungers beyng on the same haven. Also in the xth day of Februarie last past in the tyme of the last parliament <sup>26</sup> Rauff Fenwyk George Cressewell Richard Strother Gilbert Colynwodde Roger Eryngton Robert Cressewell Humfrey Rogerson John Wilson Rauff Wederyngton Roger Cramlyngton John Cressewell Robert Dove Roger Belynycham Richard Verell Cristofer Codlyng Robert Grame George Roderford, Rolland lawson, Robert Gusterd, Robert Smyth, William Blythe Robert Bowmaker Thomas Gollan Archembald Brown Thomas Dalton John harropp Robert Carre Thomas Pattonson Richard Pattonson Robert Elwald William Baxter Edward Jakson John Reede, Thomas Bell, Thomas Hanson, Richard Stokhall George Waldhave Thomas Wilkynson William Herdwyk William Milbourne & John Davyson with many other lewed & evyll disposed persons to your poore Oratours vnknowyn to the nombre of fyve hundreth persons & aboue riottously & forcibly armed in hernays <sup>17</sup> as though it hadd ben in tyme of Werre with Speres Gleyves <sup>27</sup> bowes & arrowes by the exortacion commaundement & labour

<sup>22</sup> 'If the jayler keep the prisoner more straitly than he ought of right, whercof the prisoner dyeth, this is felony in the jayler by the common law. And this is the cause that if a prisoner die in prison, the coroner ought to sit upon him' (Coke, 3 'Inst.' 91).

<sup>23</sup> I.e. 1510.

<sup>24</sup> I.e. sunk. 'On of the grettist carrakez . . . was so rent and bored in the sides . . .

that sone after it was dround.' Murray, Eng. Dict.' s.v.

<sup>25</sup> The rival port of the prior of Durham (Craster, p. 289).

<sup>26</sup> Summoned January 21, 150<sup>2</sup>/<sub>10</sub>; dissolved the following February 23.

<sup>27</sup> 'Gleyve, glaive,' &c. A name given at different periods to three distinct kinds of weapons, viz., lance, bill, and sword (Murray, 'Eng. Dict.' s.v. 'glaive'). At this



of the seid Priour assembled togyther at Tynemowth aforeseid and with them in compeny great nombre of thenhabitauntes of Tyndale & Reddesdale,<sup>28</sup> to whom as it is supposed & opynly spokyn in the Contrees ther the seid Ryott & vnlawful Assemble was comytte The seid Priour gave wage vjd by the day<sup>29</sup> To thentent that the seid mysdemeaned persons by his comaundement shuld haue murdred the meyer aldermen & other thenhabytauntes of your seid Towne And to haue takyn drowned & distroyed ther Shippes beyng in the Porte of the same And so they hadd drowned the best Shippe belongyng to the seid Towne if they hadd nott well defended & itt rescowed. And so in hernays riottously ayeyn your lawes & peas assembled dayly rode abowt your seid Towne of Newcastell by the space of vj dayes and tooke many of thenhabitauntes of the same towne & them enprisoned att Tynemouthe And as is opynly seid by suche as wer of the seid riottous companye the seid Priour said though they kylded oon hundreth of the caytyffes dwellyng in Newcastell he shuld be ther warraunt. The whiche persones then riottously tooke oon John haddeswell merchaunt of Newcastell and hym vnlawefully enprisoned emong other of the same Towne and hym in prison witheld & payned to suche tyme as the seid Priour for drede that he shuld dye in prison lett hym departe and vppon the seid enprisonement the same John Haddeswell deyed within xij howres after he departed out of the seid prison Also the seid mysdemeaned persons riottously the tyme aforeseid took John Todde Robert Wilkynson Rychard Wylkynson dwellyng in Newcastell aforeseid and them by the commaundement of the seid Priour enprisoned at Tynemowthe aforeseid and them in prison witheld to suche tyme as they wer bound & promysed to reentre the seid prison when the seid Priour shulde commaunde them Also thenhabitauntis of your seid Towne duryng the tyme of the seid vnlawfull and riottous assemble durst nott for drede of ther lyves goo to ther Shippes att Sheeles or otherwise abowt ther besynesse

period commonly a staff-weapon in the nature of a bill.

<sup>28</sup> Tyndale and Riddesdale, or Redesdale, were notoriously wild parts of the county. Archdeacon Thomas Magnus, writing to Wolsey on August 17, 1527, gives an account of the recent assizes at Newcastle: 'Sixteen persons were executed; many of the great surnames and headsmen of Tyndale and Riddesdale.' He suggests that twelve of the principal surnames in Tyndale should be always kept as pledges, and renewed three times a year (L. and P. H. 8, iv. 2402). These freebooters were also

zealous for the Church, as appeared in the Pilgrimage of Grace in 1536 (Welford, ii. 149). Cp. L. and P. H. 8, iv. 10.

<sup>29</sup> 'Up to the year 1540, the average wages of an artisan in the country were three shillings a week; of a labourer in husbandry, working by the day, two shillings a week.' J. E. T. Rogers, 'Six Centuries of Work and Wages' (1884), ii. 388. For this part of the country, and for the class of men presumably enlisted by the prior, the wage of sixpence a day was high, as the context implies.

butt kept them close within the walles of your seid Towne as thowgh they hadd ben asseyed<sup>30</sup> with enemyes And of suretie most graciouse souereign lorde suche a great Gadderyng & vnlawfull assemble of people so long contynewed to gether in tyme of peas hath nott ben seen in thoose parties of many yeres past Nor to so perillouse example of other offendoures in tyme comyng And itt shall gyve great Boldnes to other mysdoers in tyme to come to doo & commytte suche like offences onles itt be punysshed. Thus most gracious souereign lord the seid Priour of his great myght malicioouse mynde and extort power riottously dayly taketh encrocheth & converteth to his owne propre vse your ground & enheritaunce parcell of your Crown within the seid haven & porte the whiche your seid poore Oratoures haue in Fee ferme of your highnes And by subtyll & crafty meanes by his Fisshegarthes so ebbeth and shalloweth the same porte and by meane of chargyng and dischargyng of Shippes att Sheeles aforeseid if it be suffred so to contynewe in tyme comyng your seid poore Towne which is the chieff Savegarde releffe & defence of all the Contrees therunto adioynyng in tyme of Werre shall be vtterly decayed and gyvyn vpp in to your handes and thenhabitauntes of the same compelled to departe & dwell in other places and by meane therof your grace & your heires disenherited of your dueties<sup>31</sup> within the same which amownteth yerly to the som of sixe hundreth poundes and aboue Onles your highnes of your most graciouse disposicion provyde remedie in all the premysses which your seid poore Oratours beseche your grace att the Reuerence of god to adverte and consider And they shall dayly pray for your most noble grace longe & prosperously in helthe & honour to contynewe & endure.<sup>32</sup>

*Indorsed.* Newcastle, The Maier, Aldermen & Commonaltee therin versus the Priour of Tynnemouthe.

The Maior aldermen and certen honest Comoners versus the Artificers Burgenses & Guildmerchauntes ther.<sup>33</sup>

<sup>30</sup> In the sense of 'assailed.' Cp. Shakespeare, *Measure for Measure*, i. ii. 186: 'Bid her selfe assay him.' Murray, 'Eng. Dict.' s.v. Assay.

<sup>31</sup> A generic term embracing customs and tolls. 'The costumes, tolles, scawage, peages and duetees of the cytees' (Caxton, 'Chesse,' 120. Murray, 'Eng. Dict.' s.v. 'duty'). But it cannot be used of Newcastle in this wide sense, for the tables in Schanz ('*Englische Handelspolitik*' [1881], ii. 55), shew that from Michaelmas, 1509, to Michaelmas, 1510, the customs on exports

and imports levied at Newcastle amounted to 1,657*l.* 3*s.* 3*d.* The inference is that the complainants meant that the duties taken by the prior at Tynemouth and Shields, which would otherwise be levied by the town officials and the customers at Newcastle amounted to 600*l.*, of which the king was 'disinherited'—probably an exaggerated estimate.

<sup>32</sup> No more documents in this case found among the Star Chamber MSS. See Introduction, p. xcv.

<sup>33</sup> These two indorsements are ap-

NEWCASTLE UPON TYNE, MAYOR &amp;c. OF v. ARTIFICERS &amp;c. OF.\*

A.<sup>1</sup> To the kyng our soueraigne lord :

HUMBLY COMPLAYNYNG <sup>2</sup> shewith vnto your highnes your daily Oratours <sup>3</sup> and true liegemen the maire and Aldremen <sup>4</sup> and certayne <sup>5</sup> the honest <sup>6</sup> Comyners of your Towne of Newcastle <sup>7</sup> vppon Tyne. Where your saide Towne is, <sup>8</sup> and the Tyme wherof mannes mynd is not the contrarie <sup>9</sup> hath bene a Towne corporate <sup>10</sup> endowed with dyuers great Franchises and liberties aswell had by the grauntis <sup>11</sup> of your most noble progenytours <sup>12</sup> as by many good and lawdable <sup>13</sup> Custumes vsed within the same approued and confirmed <sup>14</sup> by your highnes and your said <sup>15</sup> most <sup>16</sup> noble progenytours, <sup>17</sup> And emongis all other custumes, one is <sup>18</sup> that the mercers Drapers and bothemen <sup>19</sup> called marchaundis <sup>20</sup> of Corne within the same Towne haue occupied & vsed to buye <sup>21</sup> and sell aswell <sup>22</sup> in greate <sup>23</sup> as by retail <sup>24</sup> in the same Towne all maner of wares and merchaundises what so euer aswell perteynyng <sup>25</sup> to their owne misteries as to orders <sup>26</sup> and all order <sup>27</sup> persones of eny order <sup>28</sup> craftys <sup>29</sup> or misteries within the same Towne haue vsed only to medle occupye <sup>30</sup> vtter buye <sup>31</sup> and sell thyngis perteynyng to their owne particuler misteries and craftis <sup>32</sup> and no ferder <sup>33</sup> nor eny order <sup>34</sup> without especiall agrement in that behalfe had and opteyned, And duryng all the said <sup>35</sup> tyme the said <sup>36</sup> Towne hath bene wale <sup>37</sup> ordred <sup>38</sup> and ruled by maires Aldremen <sup>39</sup> and order

\* R.O. Star Chamber Proc. Henry 7, No. 106. Wrongly sorted. Introd. pp. xevi.

<sup>b</sup> I.e. the first year of Richard 1 (1189), beyond which, by the Statute of Westminster the First (1275), it was not necessary to prove seisin of ancestors (Ooke upon Littleton, 113, a, 114, b, 'of Tenure in Burgage'). As the earliest charter goes back to Henry 1, this allegation is true (J. Brand, 'Hist. of Newcastle (1789),' ii. 130). In 1293 the men of Newcastle were claiming a Gilda Mercatoria, to inquire into which and other claims a Quo Warranto was issued, with no

very definite result (ib. 145 n.) In Mayor of Winton v. Wilks, Holt, C.J., said 'that the words Gilda Mercatoria signify a corporation, and that where the King in ancient times granted to the inhabitants of a ville or borough to have gildam mercatorium, they were by that incorporated.' Dr. C. Gross, 'The Gild Merchant' (Oxford 1890), II. 269. In 1216 John granted them a charter expressly mentioning the Merchant Gild. 'Concessimus etiam eis gildam mercatorium' (ib. 183).

<sup>c</sup> From 'booth,' a covered stall in a market (Murray, 'Eng. Dict.' s.v.).

parently in the same sixteenth-century hand, and the latter is a mistake. The inference is that the papers were sorted after 1515, which is the date of the case of the Mayor, &c., versus the Artificers.

<sup>1</sup> The documents are in duplicate, this being the plaintiffs', the other the defendants' parchment. The various readings of the defendants' are noted below.

<sup>2</sup> compleynyng. <sup>3</sup> Oratouris  
<sup>4</sup> Aldermen. <sup>5</sup> certain. <sup>6</sup> honeste.  
<sup>7</sup> Newcaster. <sup>8</sup> ys. <sup>9</sup> contrary.  
<sup>10</sup> grauntys. <sup>11</sup> progenytours. <sup>12</sup> laudable.  
<sup>13</sup> confermed. <sup>14</sup> seid. <sup>15</sup> moost.  
<sup>16</sup> progenytours. <sup>17</sup> marchauntys. <sup>18</sup> by.  
<sup>19</sup> aswele. <sup>20</sup> great. <sup>21</sup> retaille.  
<sup>22</sup> perteynyng. <sup>23</sup> others. <sup>24</sup> other.  
<sup>25</sup> craftes. <sup>26</sup> occupy. <sup>27</sup> bye. <sup>28</sup> craftys.  
<sup>29</sup> further. <sup>30</sup> well. <sup>31</sup> ordered.



hed<sup>32</sup> Officers of the same,<sup>d</sup> To whome thenhabitauntis of the same Towne hath<sup>33</sup> duryng<sup>34</sup> all the saide tyme mekely obeyed and by theym have bene peasible<sup>35</sup> ruled and gouerned to the pleasure of god wele and truly seruyng their Pryncis,<sup>36</sup> by meane wherof the said Towne hath prosperously contynued and abiden<sup>37</sup> till<sup>38</sup> nowe of late that certayne sedicious and maliciously disposid persones ynhabitauntis<sup>39</sup> of the same Towne hath moued and stered<sup>40</sup> many of the Comons of the same Towne to disobedience of their maire, not contented with the said rehersed custume, whiche and oder lawdable<sup>12</sup> custumes tyme out of mynd<sup>41</sup> hath alway<sup>42</sup> bene vsed within the same Towne,<sup>e</sup> but vsurpe and clayme to buye<sup>27</sup> and sell all maner wares marchaundises and oder<sup>24</sup> thynges<sup>43</sup> within the same Towne att their libertie aswell perteynyng<sup>22</sup> to oder<sup>24</sup> craftis<sup>25</sup> and misteries as to their owne without any agrement contrarie<sup>9</sup> to the sayde<sup>14</sup> auneyent<sup>44</sup> lawdable custume, aswell contrarie<sup>9</sup> to the same custume as oder lawdable<sup>12</sup> custumes, And notwithstanding<sup>45</sup> that your said sup-  
plyauntis<sup>46</sup> wylling<sup>47</sup> good rule and conformytie<sup>48</sup> to be had wythyn<sup>49</sup> the said<sup>14</sup> Towne haue humbly requyred<sup>50</sup> and desired the saide<sup>14</sup> euyll<sup>51</sup> disposed persones to desiste and leue their sayde<sup>14</sup> oppynyons<sup>52</sup> vntill tyme of your generall assises to be holden withyn your saide Towne and then to be ordred<sup>31</sup> vppon all claymes and titles by theyme<sup>53</sup> pretended by your Justyces<sup>54</sup> of assises, they haue not regarded the same but vtterlye disobeyeng<sup>55</sup> your sayde<sup>14</sup> hed<sup>56</sup> Officers ayenst<sup>57</sup> your lawes and pease<sup>58</sup> haue riotously with force and armes in maner of newe insurreccions and rebellion ofte and many Tymes gedred<sup>59</sup> theym<sup>53</sup> selfe to gether<sup>60</sup> to the nombre of fyue hundredth persones and aboue, and by confederacye<sup>61</sup> f haue bounde theym selfe to gythers<sup>62</sup> by othe vppon the<sup>63</sup> Euauangelies sworne all they<sup>64</sup> to take one partie<sup>65</sup> in goode and euyll<sup>66</sup> in pursuyng their erronyous oppynons,<sup>52</sup> And more ouer haue made certayne<sup>67</sup> bokes enseled<sup>68</sup> with their seales wherby they be bounde all as one and

<sup>d</sup> Henry 4, by a charter dated May 23, 1400, granted 'that the burgesses, instead of bailiffs as formerly, should have a sheriff to be chosen annually 'per viginti et quatuor de magis idoneis discretioribus probioribus et honestioribus burgensibus' Brand, ii. 169. Possibly this suggested 'the honest Comyners.'

<sup>e</sup> 'Where a man will plead a title of prescription of eustomie, Hee shall say, that such eustomie hath beene used from time whereof the memory of man runneth not to the contrary' (Littleton, § 170 in Coke, supr. cit.).

<sup>f</sup> A term of art signifying unlawful combination. Cf. 3 Hen. 6, c. 1 (1425).

<sup>32</sup> hedd <sup>33</sup> haue. <sup>34</sup> during. <sup>35</sup> peasably.  
<sup>36</sup> prinees. <sup>37</sup> abidden. <sup>38</sup> vnto.  
<sup>39</sup> enhabitaunees. <sup>40</sup> stirred. <sup>41</sup> mynde.  
<sup>42</sup> alwey. <sup>43</sup> thingis. <sup>44</sup> auncient.  
<sup>45</sup> notwithstanding. <sup>46</sup> suppliauntys.  
<sup>47</sup> willing. <sup>48</sup> eonformytee. <sup>49</sup> within.

<sup>50</sup> required. <sup>51</sup> evell. <sup>52</sup> opynyons.  
<sup>53</sup> thaym. <sup>54</sup> Justiees. <sup>55</sup> disobeying.  
<sup>56</sup> hedde. <sup>57</sup> agaynste. <sup>58</sup> peax.  
<sup>59</sup> gadered. <sup>60</sup> geder. <sup>61</sup> cofederacye.  
<sup>62</sup> geders. <sup>63</sup> holy. <sup>64</sup> thei. <sup>65</sup> part.  
<sup>66</sup> evill. <sup>67</sup> certain. <sup>68</sup> enseled.

one as all to take on<sup>69</sup> full partie ayenst<sup>70</sup> their said<sup>71</sup> maire and Aldremen,<sup>4</sup> And thus they contynue in their said<sup>14</sup> confederacie<sup>72</sup> malycyous<sup>73</sup> and detestable purpose to the most myscheuous and perilous<sup>74</sup> example that euer was seen within this Realme and to thutter<sup>75</sup> vndoyng and distruccion<sup>76</sup> of your said<sup>14</sup> Towne, yf they be suffred to contynue their saide<sup>14</sup> confederacie<sup>72</sup> Rebellions and lewde<sup>8</sup> demeanour, yn so moche<sup>77</sup> gracious soueraigne lorde that your sayde<sup>14</sup> Oratours whiche be officers of Justice within your sayde<sup>14</sup> Towne dare yn no wise<sup>78</sup> attache<sup>79</sup> any<sup>80</sup> euyl<sup>81</sup> disposed persone<sup>82</sup> for any cause within your saide<sup>14</sup> Towne, kepe Courtis Sessions of pease<sup>58</sup> or oderwise<sup>83</sup> occupye<sup>84</sup> theer<sup>85</sup> offices and mynyster<sup>86</sup> Justice within the same for drede of their lyues. For vndoubtedlye<sup>87</sup> most<sup>15</sup> gracious soueraigne lorde the sayde<sup>71</sup> confederatis<sup>88</sup> be so<sup>89</sup> strong within the same Towne that oder punysshment<sup>90</sup> saue onlye<sup>91</sup> your Royall<sup>92</sup> power will<sup>93</sup> not serue for the<sup>94</sup> repressyng<sup>95</sup> their vnlawfull<sup>96</sup> demeanour. They haue openly spoken and promysed to kill<sup>97</sup> your saide<sup>14</sup> Officers not assentyng their desires. Wherefore most gracious soueraigne lorde your saide<sup>14</sup> Oratours att the<sup>98</sup> reuerence of god in consideracion<sup>99</sup> of Justice humbly beseche your highnes to considre the premysses<sup>100</sup> and to<sup>94</sup> fynde meane that the sayde<sup>14</sup> Offenders may be so punysshed<sup>101</sup> that terrible ensample therof<sup>102</sup> may ensue to soche<sup>103</sup> like offenders in tyme commyng, otherwise most<sup>15</sup> gracious and<sup>94</sup> soueraygne<sup>104</sup> lorde your sayde poore<sup>105</sup> Towne shall rest<sup>106</sup> and remayne<sup>107</sup> without Justice or good ordre<sup>108</sup> and your subgiettys<sup>109</sup> of abilitie to rule and gouerne your sayde<sup>14</sup> Towne shall not dare dwell within the same for drede of their lyues, wherby desolacion decay and vndoyng<sup>110</sup> of your said<sup>14</sup> Towne shall ensue, and your grace sore hurted<sup>111</sup> yn<sup>112</sup> your custumes and other thyngis<sup>43</sup> belongyng<sup>113</sup> to your Crowne within the same. And if<sup>114</sup> the saide<sup>14</sup> mysdemeaned persones<sup>115</sup> can<sup>116</sup> obiecte<sup>117</sup> or allege<sup>118</sup> any defaute<sup>119</sup> yn<sup>112</sup> your saide besechers they be redy at all tymes to be ordered and corrected by your grace your most<sup>15</sup> honorable Counsaill<sup>120</sup> or whome it shall please your highnes to lymyte<sup>121</sup> and appoynte<sup>122</sup> for the same.

\* 'ill-conditioned' (Murray, 'New [or Oxford] Eng. Dict.' s.v.).

<sup>69</sup> one.	<sup>70</sup> agayne.	<sup>71</sup> seide.	<sup>72</sup> confederacy.	<sup>98</sup> atte.	<sup>99</sup> conseruacion.	<sup>100</sup> premisses.
<sup>73</sup> malicious.	<sup>74</sup> perillous.	<sup>75</sup> the vtter.	<sup>76</sup> destruccion.	<sup>77</sup> muche.	<sup>78</sup> noowise.	<sup>101</sup> punyshed.
<sup>79</sup> attach.	<sup>80</sup> eny.	<sup>81</sup> euill.	<sup>82</sup> persounc.	<sup>102</sup> theirol.	<sup>103</sup> suche.	<sup>104</sup> soueraigne.
<sup>83</sup> otherwise.	<sup>84</sup> occupie.	<sup>85</sup> theire.	<sup>86</sup> mynystre.	<sup>105</sup> power.	<sup>106</sup> reste.	<sup>107</sup> remaigne.
<sup>87</sup> vndoubtedly.	<sup>88</sup> con-	<sup>89</sup> federatio.	<sup>90</sup> soo.	<sup>108</sup> ordre.	<sup>109</sup> subiectis.	<sup>110</sup> vndoing.
<sup>91</sup> only.	<sup>92</sup> Roiall.	<sup>93</sup> wille.	<sup>94</sup> omitted.	<sup>111</sup> horted.	<sup>112</sup> in.	<sup>113</sup> belonging.
<sup>95</sup> repressing.	<sup>96</sup> vnlaufful.	<sup>97</sup> kyll.	<sup>98</sup> punysshment.	<sup>114</sup> yf.	<sup>115</sup> persounes.	<sup>116</sup> canne.
			<sup>99</sup> only.	<sup>117</sup> abiect.	<sup>118</sup> alegee.	<sup>119</sup> defaulte.
			<sup>100</sup> repressyng.	<sup>120</sup> Counsaile.	<sup>121</sup> lymitte.	<sup>122</sup> oppoynte.

And this they moste<sup>15</sup> humbly requyre<sup>123</sup> your highnes at<sup>93</sup> the Reuerence of god and<sup>124</sup> aduoydyng<sup>125</sup> the perilous<sup>74</sup> examples of oder soche<sup>103</sup> like offenders decay and desolacion of your sayde<sup>14</sup> Towne whiche oderwise by meane of the saide<sup>14</sup> confederacions<sup>126</sup> shall not fail<sup>127</sup> shortly to ensue. And your saide<sup>14</sup> besechers shall daily<sup>128</sup> pray to god for your highnes long<sup>129</sup> in honour prosperously to contynue and endure.

B.<sup>1</sup> The answeere of the Artificers Burgenses and Guildmarchauntis<sup>2 a</sup> of the Towne of Newcastle To the bill<sup>3</sup> of Complaynt<sup>4</sup> of the mayre<sup>5</sup> and Aldermen of the saide<sup>6</sup> Towne.

THE SAYDE<sup>6</sup> ARTIFICERS sayen that the seyde<sup>6</sup> bill is cediciously<sup>7</sup> sklawderously<sup>8</sup> contryued<sup>9</sup> and vntruly<sup>10</sup> Imagyned<sup>11</sup> by the saide<sup>6</sup> mayre<sup>5</sup> and Aldermen and other<sup>12</sup> their adherentis and of their<sup>13</sup> affynytye fewe in nombre of<sup>14</sup> their owne synguler<sup>15</sup> lucre and aduayle<sup>b</sup> and to thentent that the better credence shulde be<sup>16</sup> geuen to their vntrue and feyned<sup>17</sup> surmyses,<sup>18</sup> for where they allege that onles<sup>19</sup> the sayde<sup>6</sup> artificers shulde be<sup>16</sup> restreyned<sup>20</sup> fro their auncient libertie in free byeng<sup>21</sup> and sellyng<sup>22 c</sup> that the kyngis<sup>23</sup> grace shuld<sup>24</sup> haue a losse in his Custumes, and that the said<sup>6</sup>

<sup>a</sup> These are not mutually exclusive terms. The point of the defendant artificers is that they were both burgesses and also brethren of the Gild Merchant. A person could be an inhabitant of a Town without being either. Nor again are the terms 'Burgesses' and 'Gild Merchants' coextensive. Membership of the Gild Merchant could be enjoyed by other than Burgesses. The qualification of membership of the Gild was ability to pay scot and lot, that of a Burgess, ownership of a burgage tenement within the town with the incidents of watch and ward, service on juries and in municipal offices &c. C. Gross, *The Gild Merchant* (Oxford, 1890), i. 66-

72. See R. Brady, 'Cities and Boroughs' (1777), p. 35.

The words 'Gild Merchants,' in the sense contended for by the defendants, included handicraftsmen who sold their own produce; an interpretation undoubtedly justified by the older records, e.g. 'De mercatoribus, videlicet, piscatoribus, factoribus pannorum, tannatoribus, &c.' (Rot. Hund. i. 531; Gross 107, n. 2).

<sup>b</sup> avail, advantage.

<sup>c</sup> 'The brethren of the ancient Gild Merchant were those who enjoyed freedom of trade ('libertas emendi et vendendi') (Gross, i. 123).

<sup>123</sup> require. <sup>124</sup> in. <sup>125</sup> advoiding.  
<sup>126</sup> confederacies. <sup>127</sup> faile. <sup>128</sup> daily.  
<sup>129</sup> longe.

<sup>1</sup> This Answer is on the same parchment and in the same hand as the bill of complaint, and belonged to the plaintiffs. The various readings of the duplicate Answer, also engrossed on the same parchment as the duplicate bill of complaint, appear below. This other parchment, as

the interrogatories shew, belonged to the defendants.

<sup>2</sup> Guyldmarchauntys. <sup>3</sup> byll.  
<sup>4</sup> complaynte. <sup>5</sup> maire. <sup>6</sup> seid.  
<sup>7</sup> cedisciusly. <sup>8</sup> sklawnderusly.  
<sup>9</sup> contriued. <sup>10</sup> ontruly. <sup>11</sup> Imagened.  
<sup>12</sup> oder. <sup>13</sup> thair. <sup>14</sup> for. <sup>15</sup> singuler.  
<sup>16</sup> shuldbe. <sup>17</sup> fayned. <sup>18</sup> surmises.  
<sup>19</sup> onlesse. <sup>20</sup> restrayned. <sup>21</sup> bying.  
<sup>22</sup> selling. <sup>23</sup> kingis. <sup>24</sup> shulde.



Towne shuld be there by in decay and desolation,<sup>25</sup> whiche fayned surmyse by matier<sup>26</sup> of recorde shall appere to the contrarie<sup>27</sup> for in tymes passed the sayde<sup>6</sup> artificers bought and sold<sup>28</sup> all maner of marchaundises and wares att<sup>29</sup> their free libertie accordyng<sup>30</sup> to the grauntis<sup>31</sup> made to<sup>32</sup> theym by the kyngis<sup>23</sup> noble progenytours<sup>33</sup> and ratified and confirmed<sup>34</sup> by the kyngis<sup>23</sup> grace that nowe is without any agree<sup>35</sup> with other craftis,<sup>36</sup> the said<sup>6</sup> custumes were then greater<sup>37</sup> to the kyngis<sup>23</sup> profite<sup>38</sup> then they be nowe as appereth by bokys<sup>39</sup> thereof<sup>40</sup> remaynyng of Record,<sup>41</sup> and the said<sup>6</sup> Towne then in better substaunce of goodis<sup>42</sup> good ordre<sup>43</sup> and rule then it<sup>44</sup> is<sup>45</sup> nowe. For the saide<sup>6</sup> artificers seyne that by the grauntis made vppon<sup>46</sup> their first<sup>47</sup> corporacion it appereth<sup>48</sup> that the libertie and auctoritie<sup>49</sup> of free byeng<sup>21</sup> and sellyng<sup>22</sup> was in a generaltie<sup>50</sup> geuen to all the burgeses Guyldmarchauntis<sup>51</sup> of the said<sup>6</sup> Towne no<sup>52</sup> persone<sup>53</sup> excepted,<sup>54</sup> and they seyne<sup>55</sup> that the seyde<sup>6</sup> Artificers that nowe be<sup>56</sup> and their predecessours before theym<sup>57</sup> haue alwaies<sup>58</sup> bene free Burgeses and Guildmarchauntis in the saide<sup>6</sup> Towne sens<sup>59</sup> their first<sup>60</sup> corporacion, by reason wherof the seide Artificers by all the saide<sup>6</sup> tyme haue vsed and owe to vse free byeng<sup>21</sup> and sellyng<sup>22</sup> without interrupcion till nowe of late that the saide<sup>6</sup> maire and Aldermen few<sup>61</sup> in nombre and not able to maynteyne<sup>62</sup> the seyde<sup>6</sup> Towne haue entended wrongfully to put<sup>63</sup> the sayde<sup>6</sup> Artificers Burgeses<sup>64</sup> and Guildmarchauntis<sup>65</sup> fro their free byeng<sup>21</sup> and sellyng<sup>22</sup> of suche wares and marchaundises as comme<sup>66</sup> to the sayde Towne, aswell by the see as by land<sup>67</sup> contrarie<sup>68</sup> to their olde priuilegis<sup>69</sup> fre vsagis<sup>70</sup> and custumes, and

<sup>a</sup> 'According to the ancient custom of London, the man who served his seven years' apprenticeship in any trade became, not merely free to practise that particular calling, but free to trade in any fashion within the City.' Dr. W. Cunningham, 'Growth of English Industry and Commerce, Early and Middle Ages' (4th ed. 1905), p. 345. Newcastle was a daughter town of Winchester and Winchester of London.

\* These pleadings belong to the year 1515. The table of the customs of New-

castle shews, however, that though between Michaelmas 1509 and Michaelmas 1512 the receipts had fallen from 1657*l.* to 1175*l.*, they had risen to £1469 by Michaelmas 1513, and by the Michaelmas following to 2021*l.* But these sums appear to have been considerably exceeded during the latter half of Henry 7's reign. In 1501-2, for instance, the customs receipts ran up to 3821*l.*, a sum not again equalled for twenty years (G. Schanz, 'Englische Handelspolitik' [Leipzig, 1881], ii. 11, 44, 55).

<sup>25</sup> disolacion. <sup>26</sup> mater. <sup>27</sup> contrary.  
<sup>28</sup> solde. <sup>29</sup> at. <sup>30</sup> according.  
<sup>31</sup> grauntys. <sup>32</sup> vnto. <sup>33</sup> progenytours.  
<sup>34</sup> conformed. <sup>35</sup> agrement. <sup>36</sup> craftes.  
<sup>37</sup> gretter. <sup>38</sup> profecte. <sup>39</sup> bokes.  
<sup>40</sup> theirol. <sup>41</sup> recorde. <sup>42</sup> goodes.  
<sup>43</sup> ordre. <sup>44</sup> yt. <sup>45</sup> ys. <sup>46</sup> vpon.  
<sup>47</sup> furste. <sup>48</sup> apperith. <sup>49</sup> auctorite.

<sup>50</sup> generalitie. <sup>51</sup> Guildmarchauntys.  
<sup>52</sup> noo. <sup>53</sup> persoune. <sup>54</sup> excepte.  
<sup>55</sup> seyen. <sup>56</sup> bene. <sup>57</sup> thaym.  
<sup>58</sup> alwaies. <sup>59</sup> syn. <sup>60</sup> furst.  
<sup>61</sup> fewe. <sup>62</sup> mayntaync. <sup>63</sup> putt.  
<sup>64</sup> Burgenses. <sup>65</sup> Guild marchauntis.  
<sup>66</sup> come. <sup>67</sup> the londe. <sup>68</sup> contrary.  
<sup>69</sup> priuileges. <sup>70</sup> vsagis.

will<sup>71</sup> not nowe suffre the sayde<sup>6</sup> artificers to vse suche byeng<sup>21</sup> and sellyng<sup>22</sup> of wares and marchaundises as they haue done by reason of theyr<sup>72</sup> saide<sup>6</sup> pryuylege,<sup>73</sup> all be it<sup>74</sup> that the saide<sup>6</sup> artificers bene and all waies<sup>58</sup> haue bene obedient and confirmable in all thyngis<sup>75</sup> to the good ordre<sup>76</sup> and rule of the said mayre<sup>5</sup> and Aldremen,<sup>77</sup> while<sup>78</sup> maire and Aldremen<sup>77</sup> be<sup>79</sup> the brekers and subuerters of the good ordre and rule of the said<sup>6</sup> Towne, whiche is there<sup>80</sup> openly knowen, for the said<sup>6</sup> artificers seyne<sup>55</sup> that certayne<sup>81</sup> persones<sup>82</sup> of the said<sup>6</sup> Towne haue sued for Justice to the said<sup>6</sup> maire and Aldremen<sup>77</sup> syttyng<sup>83</sup> in the Kyngis<sup>23</sup> Courte of the said Towne for executyng<sup>84</sup> of Justice att<sup>29</sup> whiche tyme the saide maire and Aldremen<sup>77</sup> wold<sup>85</sup> litle<sup>86</sup> or nothyng<sup>87</sup> regard<sup>88</sup> the saide<sup>6</sup> humble sute or place of Justice, but with greate fury maliciously breke<sup>89</sup> the hed<sup>90</sup> of one of the said suters in the said<sup>6</sup> Courte that the blode<sup>91</sup> ranne downe by his eres, to the worst<sup>92</sup> example that coude<sup>93</sup> be. Without that that any of the saide<sup>6</sup> artificers haue moued or stered<sup>94</sup> any of the comons of the said<sup>95</sup> Towne to disobedience of the saide<sup>95</sup> mayre<sup>5</sup> and<sup>96</sup> oder<sup>97</sup> hed<sup>90</sup> officers agayne the kyngis<sup>23</sup> lawes and pease,<sup>98</sup> or that the saide<sup>6</sup> Artificers or any other by their<sup>80</sup> procuryng haue gadred<sup>99</sup> theym to gether<sup>100</sup> in riotouse<sup>101</sup> wise in maner of a newe insurreccion and rebellion in any suche nombre, or bound<sup>102</sup> them<sup>103</sup> selfe by confederacie,<sup>104</sup> othe or otherwise vnlawfully, or haue made any such bokes ensealed to take oders parte<sup>105</sup> in erronyous<sup>106</sup> oppynyons<sup>107</sup> a gayne<sup>108</sup> the saide maire and Aldermen or euer were of suche condicion in maner and fourme as by the said<sup>6</sup> bill is supposed. And without that, that the said<sup>6</sup> Officers of Justice in the saide<sup>6</sup> Towne bene interrupted<sup>109</sup> or letted by the said<sup>6</sup> artificers to kepe Courtis or<sup>110</sup> sessions but by them<sup>103</sup> greatly assisted to the best<sup>111</sup> of their powers in executyng of Justice, And without that, that the said<sup>6</sup> Artificers euer promysed or spoke any suche wordes to kill<sup>112</sup> the said<sup>6</sup> officers, or bene of any suche mysdemeanour in maner and fourme as by the said bill<sup>3</sup> is<sup>45</sup> also supposed. And the said Artificers sayen<sup>113</sup> that dyuers<sup>114</sup> ordynaunces<sup>115</sup> were made in the tyme of kyng<sup>116</sup> Edward the third by cause of like variaunce that then was in the saide<sup>95</sup> Towne, atte<sup>29</sup> whiche tyme aswell by thassent of the saide<sup>6</sup> maire and Aldremen<sup>77</sup>

<sup>71</sup> woll.<sup>72</sup> their.<sup>73</sup> priuilege.<sup>93</sup> cowde.<sup>94</sup> stirred.<sup>95</sup> seide.<sup>96</sup> or.<sup>74</sup> Albeit.<sup>75</sup> thinges.<sup>76</sup> order.<sup>97</sup> other.<sup>98</sup> peax.<sup>99</sup> gadered.<sup>100</sup> geder.<sup>77</sup> Aldremen.<sup>79</sup> wiche.<sup>79</sup> bene.<sup>101</sup> riotouse.<sup>102</sup> bounde.<sup>103</sup> theym.<sup>80</sup> ther. <sup>81</sup> cirtin.<sup>82</sup> persounes.<sup>83</sup> sytting.<sup>104</sup> confedrice.<sup>105</sup> partie.<sup>106</sup> erronious.<sup>84</sup> executyng.<sup>85</sup> wolde.<sup>86</sup> litell.<sup>107</sup> opynyons.<sup>108</sup> ageyn.<sup>109</sup> inturrupted.<sup>87</sup> noothing.<sup>88</sup> regarde.<sup>89</sup> brake.<sup>110</sup> and.<sup>111</sup> beste.<sup>112</sup> kyll.<sup>113</sup> seyne.<sup>90</sup> hedde.<sup>91</sup> blodde.<sup>92</sup> worste.<sup>114</sup> diuerse.<sup>115</sup> ordinaunces.<sup>116</sup> king.

as by thassent of the said <sup>95</sup> artificers dyuers <sup>114</sup> good and resonable <sup>117</sup> ordynances <sup>115</sup> were made in articles <sup>118</sup> wherto the hole Commons <sup>119</sup> were agreable to thentent that suche thyngis <sup>120</sup> as were in ambyguytie <sup>121</sup> or doute shulde be openly declared and expressed, whiche ordynauncis <sup>115</sup> and articles <sup>118</sup> were by the saide <sup>95</sup> kyng <sup>116</sup> vndre <sup>122</sup> his greate seale ratified and confirmed as for a parfyte <sup>123</sup> lawe in the same <sup>95</sup> Towne for euer to contynue, by whiche articles it apperith the saide <sup>95</sup> artificers Burgeses and Guylde marchauntis <sup>124</sup> haue auctoritie <sup>49</sup> frely to bye and sell all maner of marchaundises commyng to the said <sup>6</sup> Towne by se or by lond. <sup>125</sup> <sup>a</sup> All whiche maters the saide <sup>95</sup> artificers bene redy to proue and make goode <sup>126</sup> as this Courte will <sup>127</sup> award, <sup>128</sup> and prayen <sup>129</sup> that they may <sup>130</sup> be entreted by the saide <sup>6</sup> maire and Aldremen <sup>77</sup> as they <sup>131</sup> and their predecessours haue bene by the sayde <sup>6</sup> mayre <sup>5</sup> and Aldremen <sup>77</sup> and their predecessours.

*Indorsed in modern hand.* Newcastle upon Tyne, Mayor & Aldermen of v. Inhabitants &c.

C.<sup>1</sup>

1515 Henricus dei gracia Rex Anglie & Francie & Dominus Hibernie Dilectis & fidelibus suis Edwardo Radclyff militi <sup>2</sup> & Iohanni Bentley <sup>3</sup>

\* On October 20, 1342, the king confirmed fifteen articles for the government of the town, recited to have been agreed upon 'in plena gilda ejusdem ville.' Of these the second article ran as follows: 'Item, quod omnes burgenses ville predicte tam pauperes quam divites cujuscunque conditionis existant de omnibus navibus tam forinsecis quam intrinsecis portum ville predicte ingredientibus quibuscunque merchandis venalibus oneratis possint libere emere quod eis necesse fuerit. Et si quis dictas mercandisas emat in grossum

de mercatoribus predictis quod quilibet burgensis dicte ville si voluerit habeat de emptore illo partem mercandisarum illatarum prout sibi necesse fuerit pro sustentatione sua et familie sue ad idem precium pro quo dictus emptor de dicto mercatore dictas mercandisas prius emerit &c.' It is to be observed that the language expressly points to the right of the poor to buy as much as they pleased of any kind of merchandise. The provision for the prevention of 'corners' in commodities is also noticeable. (Brand, ii. 155).

<sup>117</sup> reasonable. <sup>118</sup> articululs. <sup>119</sup> Comons. <sup>120</sup> thinges. <sup>121</sup> ambiguyte. <sup>122</sup> vnder. <sup>123</sup> parfight. <sup>124</sup> guildmarchauntes. <sup>125</sup> land. <sup>126</sup> good. <sup>127</sup> woll. <sup>128</sup> awarde. <sup>129</sup> prayne. <sup>130</sup> maye. <sup>131</sup> thei.

<sup>1</sup> S.C.P. Hen. 8, Bdle. xxiv, 307.

<sup>2</sup> Sir Edward Radclyff was the third son of Sir Thomas Radclyff, and younger brother of Sir Richard Radclyff, K.G., the favourite of Richard 3. Edward married the heiress of Cartington, Dilston, and other places (Archæologia Aeliana, n.s. [Newcastle, 1858], ii. 139). He was constable of the Earl of Northumberland's castle of Warkworth, about thirteen miles west of Cartington, in 1488 (J. C. Hodgson, 'Hist. of Northumberland' [1899], v. 51). In April

1507, with Robert Rydon, the clerk of the Council as his colleague, he was appointed a commissioner to treat with the Scots for redress of injuries (Rymer, 'Fœdera,' xiii. 166. The date of his knighthood is unknown, but if, as is probable, he is the Edward Ratclyf who was put upon the commission of array on June 18, 1509 (L. and P. Hen. 8, I. 187), and was one of a list of debtors to Henry 7, whose debt Henry 8 cancelled soon after his accession (ib. 777), it must have been before November 14 of the same year when, as Sir Edward Ratcliffe, he was pricked sheriff of Northumberland (ib. 664). In the previous July he had, together with Thomas lord Darcy and Roger Fenwik, the last a connexion by marriage



salutem. Quia de & super veritate queremonie in quadam petitione coram nobis & Consilio nostro per maiorem & Aldermannos ac certos honestos Cominarios ville Noui Castri super Tynam versus artifices Burgenses & Guildemercatores eiusdem ville nuper exhibita contente ac de & super veritate in quadam responsione eidem petitioni per prefatos Artifices Burgenses & Guildemercatores coram nobis & dicto Consilio nostro similiter exhibita contenta vt tucius & consuleius pro

(Arch. Ael. loc. cit.) been nominated warden-general of the Middle March for defence against the Scots, an important military post, his appointment to which was renewed on August 6, 1512, when the future victor of Flodden was made commander-in-chief, and again on April 26, 1514 (ib. 5010). He had been promoted before 1510 to the select group of knights known as 'Knights of the Body,' being so styled in a lavish grant dated May 10, 2 Hen. 8, of Northumbrian manors and lordships to him and his colleague Fenwik 'in consideration of their expenses on the king's affairs on the Marches' (ib. 1040). He was not unacquainted with legal procedure, being a commissioner of jail delivery on January 20, 1510, and on the commission of the peace for Northumberland (October 18, 1544), ib. 5506. At Cartington Castle he entertained in November 1515 Henry 8's sister Queen Margaret of Scotland, who had recently escaped from the surveillance of the Regent Albany (ib. II. 1350). A year later he and Fenwik were displaced by Thomas lord Dacre as lieutenants of the Middle Marches (ib. 2736), being charged with suffering 'the country to be misguided and clear out of order' (ib. IV. 1460). But he continued to be employed in military service against the Scots (ib. III. 3510) and in 1519 received for himself and his retinue a reward of 3*l.* 6*s.* 8*d.* 'for the casting down of Blakatur and other fortresses in Scotland' (ib. 573). He was again sheriff of Northumberland in 1523-24 (ib. 3583), his son Cuthbert holding the same office in 1525-26 (ib. IV. 1795, 2402). He was sufficiently wealthy to be able to lend money to the earl of Northumberland in 1518-19 (ib. 3380 (5)). He was on the commission of the peace for the county in February 1531 (ib. V. 119 [53]), but in the commission of March 1532 only his son Cuthbert's name occurs, and the father's name disappears from the Letters and Papers, so that it is probable that he died between these two dates.

<sup>3</sup> John Bentley of Trillesden appears as a party to a demise of lands at Corbridge, dated July 11, 9 Hen. 8 (1517). Arch. Ael. (1858) II. 386. But that the John Bentley

here commissioned is the same is uncertain, though the name is apparently not Northumbrian. Nevertheless, John Bentley, without any further designation, was made a commissioner of sewers for the district of the Tyne on November 26, 1509 (L. and P. Hen. 8, i. 705), and again on March 16, 1517 (ib. II. 3017), the district being there defined as extending from a place called 'Hidwystremes' to the sea, which was held of the crown by the fee farm of the town of Newcastle (Brand ii. 16). This must have so closely associated the commissioner of sewers with Newcastle that there can be no doubt of his identity with the John Bentley commissioned in this case. He was on the commission of the peace for Northumberland in 1525 (ib. IV. 1610 (11)) and in 1530 (ib. IV. 6382). Nevertheless, he appears not to have been a native of any of the three Northern counties (see ib. 1289), and I have not been able to identify Trillesden. Sir Christopher Dacre, writing to Wolsey on March 26, 1526, recommends that he should be employed as a commissioner of jail delivery for Hexhamshire (ib. 2052). He continued on the commission of the peace during 1531, ib. V. 909 (23); 1532, ib. 1694, *ii.* p. 704; 1535, ib. VIII. 149 (73); 1536, ib. XI. 1417 (3); 1538, ib. XIII. 646 (27). But his name generally appears at the end of the lists, as if he were a person of inferior consequence, and it is to be noticed that in this commission he is not even accorded the style of 'generoso,' though the clerk adds 'gentilman' to his name. From a letter of Ralph, earl of Westmorland, to Cromwell, dated August 23, 1534, it appears that he was laying claim to the lands of the Hansarts, in the county of Durham, in right of his wife, and the earl says of him that he 'had great authority' in that county, as though that authority were past (ib. VII. 1082). This, and the letter already cited of Sir Christopher Dacre, suggests that he may have been a dependant of Wolsey, who as bishop of Durham from 1523 to 1529 was the source of authority in the palatine county. After 1538 his name disappears from the Letters and Papers.

iusticia in eisdem exhibenda procedere valeamus per vos plenius cerciorari volumus, vobis de quorum circumspeccione prouida plenam fiduciam optinemus dedimus potestatem<sup>4</sup> & auctoritatem omnes & singulos testes quos maxime pro testificacione veritatis premissorum fore videritis euocandos euocandi ac ipsos & eorum quemlibet de queremonia & responsione predictis diligenter examinandi iuxta & secundum vim formam & effectum quorundam interrogatorum superinde exhibitorum. Et ideo vobis mandamus quod visis tenoribus petitionis responsionis & interrogatorum predictorum que vobis mittimus presentibus interclusa ac materia in eisdem per vos plenius intellecta testes predictos quos in hac parte vt predictum est fore videritis euocandos coram vobis ad certos diem & locum quos ad hoc prouideritis venire faciatis & euocetis ac ipsos & eorum quemlibet de & super premissis super sancta die<sup>5</sup> Euangelia diligenter examinetis. Et nos & dictum Consilium nostrum apud Westmonasterium de examinacione illa cum sic capta fuerit sub sigillis vestris in Octabis sancti michaelis Archangeli<sup>6</sup> proxime futuri distincte & aperte sine dilatione reddatis cerciores remittentes nobis tenores predictos vnacum hoc breui. Teste me ipso apud Knoll<sup>7</sup> xxiiij die maii Anno regni nostri septimo.<sup>8</sup>

Porter.<sup>9</sup>

*Indorsed.* Responsio infrascriptorum Edwardi Radcliff militis et Johannis Bentley generosi.

<sup>4</sup> 'Dedimus potestatem.' These words gave its current name to the writ. 'Dedimus potestatem' is a writ whereby a commission is given to a private man for the speeding of some act appertaining to a judge, and it is granted most commonly upon suggestion that the party which is to do something before a judge or in court is so feeble that he cannot travel' (Cowel, 'Interpreter,' s.v. Dedimus). This was so in the case of the abbot of Malmesbury ('Select Cases in the Star Chamber' [Selden Society, 1902], p. 121). In this case it is clear that the ground of granting it was the number of persons involved in the case. (As to this procedure, see 'Select Cases in the Star Chamber' [Selden Society, 1902], pp. xxxiii-xxxiv.) In the case of the petition of the Baillys of Worcester (ib. 217), the evident ground of granting it was as in the case before us. Witnesses were to be selected for examination, and their evidence sent up to the Council. The writ when issued by the other Prerogative Court, the Court of Requests, was in English. See 'Select Cases in the Court of Requests' (Selden Society, 1898), pp. 43, 71.

<sup>5</sup> Sic, for 'dei.'

<sup>6</sup> The octave of a feast is the eighth day, including the feast, i.e. the seventh day after the feast; e.g. 'in Octabis Sancti Michaelis' (September 29) means the 6th of October (J. J. Bond, 'Handy-Book for Verifying Dates' [4th ed. 1889], p. 147).

<sup>7</sup> In Kent, at this time a palace of the archbishops of Canterbury, and, as the dates of Rymer's 'Foedera' shew, frequently visited by Henry 8.

<sup>8</sup> 1515.

<sup>9</sup> The counter-signatures to the writs of Dedimus potestatem appear to have been made by any official casually present. Of the two printed in the 'Select Cases from the Star Chamber,' published by the Selden Society in 1902, the first (p. 11) was countersigned by Richard Langport, the clerk of the Council, the second by Archbishop Warham, Master of the Rolls (p. 122). According to Mr. Brewer (L. and P. Hen. 8, II. ii., index sub nomine), Porter was the king's secretary. On October 1, 1518, he countersigned two commissions to English Ambassadors to France (ib. 4467 (4) (5)). None of these signatures bears a Christian name. He may perhaps be the William Porter who in



Virtute istius breuis nos prefati Edwardus et Johannes decimo die Julii ac diuersis diebus postea accessimus ad villam Noui Castri super tynam & ibidem delegenter examinauimus omnes et singulos testes quos pro testificacione veritatis de & super quadam querimonia ac Responsiones super eadem habitas per maiorem & Auldermannos ac certos honestos cominarios ville predictæ versus artifices Burgenses & gilde mercatores eiusdem ville nobis vnacum dicto breui missos vidimus euocauimus et eos et eorum quemlibet de & super querimonia & Responsione predictis iuxta & secundum vim formam et effectum quorundam Interrogatoriorum diligenter examinauimus quas quidem examinationes ac omnia & singula premissa concernentia domino Regi & consilio suo ad Westmonasterium ad diem infra contentam sub sigillis nostris parata habebimus prout interius nobis precepitur.<sup>10</sup>

D.<sup>1</sup> Articles to be examyned by sir Edward Ratcliff knyght and John Bentley gentilman by the kyngis commaundment of the maters in variaunce betwene the maire and Aldremen and certayne worshipfull merchauntis Burgenses and Commoners of the same Towne on the one partie, and certayne oder of the Commoners and Burgenses of the same Towne on the other partie concernyng certayne Custumes and vsagis had in the same Towne and the same by theym examyned to be certefied before the Kyng and his Counsaill in the sterre Chambre at Westminster.

First Whether it hath bene vsed tyme out of mynd that euery Burges of the same Towne for the tyme beyng hath vsed to occupie eny mistiery or Crafte oder then the Crafte that he is of, Without the agrement of suche Crafte that he desireth to be of or not.

Item Whether it hath bene vsed that any Burges of the same Towne oder thenne marchauntis of the same Towne haue vsed to bye eny marchaundises commyng to the same Towne oder then for the necessaries of their house and their famylie.

Item Whether the hand craftymen Burgenses of the same Towne or any oder then marchauntis of the same Towne haue vsed to sell in grose or by retail within the said Towne eny Wares or

a grant of March 6, 1522, is mentioned as having been clerk of the Crown in Chancery apparently since the accession of Henry 8 (ib. III. 2145).

<sup>10</sup> Sic.

<sup>1</sup> These interrogatories, being those of

the plaintiffs, are on the parchment containing A and B (S.C.P. Hen. 7, No. 106), but not on the duplicate parchment, which contains only the defendants' interrogatories F.



marchaundises but only for the necessities of their house and famylie.

E.<sup>1</sup> Examination of Wittnessez sworne afore sir Edward Radclyff knyght and John Bentley Gentilman of and for the parte and Interest of the mair Aldermen & honest persons of the Towne of Newcastle by fors of two seuerall Writtes of dedimus potestatem to theym directed to enquire and examyn vpon certen Interrogatoriez comprised & specified in a bill of compleynt maid by the seid mair Aldermen & certen honest persons of the seid Town ayenst the seid Artificers Cominers & Gild marchautes.

TO THE FIRST Article Whether it hath been vsed tyme out of mynd that euery Burges of the seid Towne of Newcastle for the tyme hath vsed to occupye eny misterye or Craft othir then the Craft that he is of Without the agrement of sich Craft that he desireth to be of or not.

TO this Article afore vs the foreseid sir Edward Radclyff and John Bentley it is fully confessed & graunted aswell by the mair Aldermen and honest men of the seid Towne as by the Artificers Cominers and Gildmarchauntez of the seid Towne of Newcastle that tyme out of mynd it hath been vsed that no artificer or Craftesman of the seid Towne hath vsed to occupye the Craft or misterye of one othir Without Agrement of the seid Craft which he desireth to be of.

AND as for the othir Interrogatiez for the parte of the seid mair Aldermen and honest persons Thomas molle of the seid Towne marcer of the age of lxvij yerez sworne & examined of the seid Interrogatoriez afore the seid Comissioners saith that he bought his fredom of the Company of marciers Willyam Selby and Willyam Wardall beyng Stewardes of the seid Craft of marciers at that tyme & payed therefore iij<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup>.<sup>2</sup>

ALSO the seid Thomas saith that tyme out of mynd no Craftesman occupyed the Craft or misterye of a othir Without Interruption agrement or Condempnacion of that Craft that he did occupye. Also that no Craftesman by all the seid Tyme bought ne sold eny marchaundisez othir then for the necessary of their housez and

<sup>1</sup> S.C.P. Hen. 7, No. 106.

<sup>2</sup> The reason of this peculiar sum was doubtless that it represented five marks.

famylie without Interruption. And also that no Craftesman bought nor retailed in grosse any marchaundise Within the seid Towne Without Interruption as is aforeseid.

ALSO John Dolfenby of the age of lxxvj yerez sworne saith that (he) dwelled & was prentes in the seid Towne when he was xx<sup>ti</sup> yere old & syns he dwelled in the Cuntre and he neuer knew oone Craftesman occupye the Craft of a nothir Without Interruption agreement or Condempnacion.

ALSO John lynker Shipewright of the age of l yerez sworne saith that he neuer knew no Craftesman occupye the Craft of any othir and that no Craftesman occupyed any marchaundisez othir then for the Necessarye of his houshold and famylie Without Interruption.

ALSO Thomas Cook marcer of the age of lxxviiij yerez sworne saith that<sup>3</sup> neuer knew any Craftesman occupye the Craft of ane othir without Interruption agreement or Condempnacion And that no Craftesman bought any marchaundisez othir then for their household and famylie Without Interruption agreement or condemnation to his knowlege.

ALSO John Browne Spuryer<sup>4</sup> of the age of lx yerez sworne saith that to his knowlege he neuer knew any Craftesman occupye the Craft of oone othir Without Interruption agreement or Condempnacion.

ALSO Rauff Sharp keilman<sup>5</sup> of the age of lxx yerez sworne saith that no Craftesman occupyed the Craft of ane othir And that no Craftesman othir then marchauntes occupyed any marchaundisez othir then for the Necessarye of their household Without Interruption agreement or Condempnacion.

ALSO Richard Rowmney<sup>6</sup> marcer of the age of lx yerez sworne saith that he neuer knew any Craftesman occupye the Crafte of ane othir And that no Craftesman othir then marchauntes occupyed any merchaundisez othir then for the Necessarye of their household & famylie Without Interruption agreement or Condempnacion.

ALSO John hayton Wever sworne saith that he agreid with Thomas Snaw and with Wardeins of the drapers Craft by Indenture for the occupation of the seid Crafte.

ALSO Willyam Esttowne marcer<sup>7</sup> sworne saith that he agreid

<sup>3</sup> Sic, 'he' omitted.

<sup>4</sup> The spurriers were an important craft in Newcastle, giving their name to 'Spurrier Gate,' and having a house of their own (Brand, ii. 360).

<sup>5</sup> A keel is 'a flat-bottom vessel, especially of the kind used on the Tyne and

Wear for the loading of colliers, a lighter.' Murray, 'Eng. Dict.' s.v.

<sup>6</sup> Or Rowinney.

<sup>7</sup> 'Mercer, in the city one that deals only in silks and stuffs. In country towns one that trades in all sorts of linen, woollen, silk and grocery wares' (E. Phillips, 'New

with John Penreth & othir beyng Wardyns of the draper Craft and paid for his fyne for the occupacion of seid Crafte of draperye xxvjs. viij<sup>d</sup>.

ALSO Robert hornby Shipewright sworne saith that he agreid With henry Androson & Perciuall Bewyk then Wardyns of the marcer Crafte & paid to his fyne for the occupacon of the same iij<sup>li</sup> vjs viij<sup>d</sup>.

ALSO John Snaw some tyme mair of the seid Towne <sup>8</sup> of the age of lxx yerez Sworne saith that he beyng freman with the merreners <sup>9</sup> agreid with Willyam Clerk & othir beyng Wardyns of the marcer Craft and Bothemen <sup>10</sup> for the occupying of their Craftes and paid for his fyne iij<sup>li</sup> xij<sup>s</sup> iij<sup>d</sup>.

ALSO lewys Sotheron of the age of fyfty yerez saith that he beyng freman With the marreners the vij<sup>th</sup> yere of the Reigne of Kyng Henry vij<sup>th</sup> George Birde then beyng mair of the seid Towne <sup>11</sup> agreid with the Wardyns of Bothemen for the occupying of their Crafte of sellyng of Corne and paid for his fyne xxvj<sup>s</sup> viij<sup>d</sup>.<sup>12</sup>

ALSO Robert Melotte of the age of xxxvj yerez sworne saith that he was Freman of the seid Towne and agreid With Thomas horsley & John Batmanson Wardyns of the Bothmen for the occupying of their Crafte.

ALSO Robert Bounde freman at the Crafte of the Shipewright of the age of lxxvij yerez sworne saith that he agreid with Thomas Swane & henry Carre Wardyns of the draper Crafte for the occupying of their Crafte.

ALSO Robert Rossell being freman of the wever Crafte sworne saith that he agreid with Alane Reede & John Johnson beyng Stewardes of the Bowcher Crafte & paid for the occupying of the same for his fyne xx<sup>s</sup>.

ALSO John Bewyk sworne saith that he was prentes to a Glouer which lerned hym the Glouer Crafte & to be a Skynner & was maid freman & paid both a fyne to the Glouer Crafte & to the Skynner Crafte.

World of Words' [1696], ed. 5, ib. s.v. Mercer). Murray, 'Eng. Dict.' The correctness of the latter part of this definition is shewn in this document, which indeed carries it somewhat further.

<sup>8</sup> In 1503 (Brand, ii. 432). It was during Snow's mayoralty that Margaret, the eldest daughter of Henry 7, passed through Newcastle on her way to her marriage with James 4 of Scotland, and was received in state by the mayor and the neighbouring noblemen as described by J. Leland ('Col-

lectanea' [ed. T. Hearne; ed. 1770], iii. 277).

<sup>9</sup> No gild of Mariners appears among the lists of gilds given by Brand.

<sup>10</sup> Bothemen here presumably means shopmen; otherwise, as Sotheron's evidence shews, the witness must have compounded with the Corn merchants' gild also.

<sup>11</sup> George Birde was mayor for four years in succession, 1493-96, and again in 1511, dying in his year of office (Brand, ii. 431-34).

<sup>12</sup> That is, two marks.



ALSO Richard Stovt sworte<sup>13</sup> saith that he was prentes to the Skynner Craft & maid freman of the same Crafte & aftirward maid fyne to the Glouers for the occupying of their Crafte.

ALSO George Bednall sworne saith that he was a freman soone<sup>14</sup> of the marcerye & fre to the same Crafte & agreid with henry Penreth & othir Wardyns of the draper Crafte & paid for his fyne xxvj<sup>s</sup> viij<sup>d</sup>.

ALSO Willyam Androsen Cordwener<sup>15</sup> sworne sath that he neuer knewe no Craftesman occupye a othir Crafte Withoute agrement And that no Craftesman shuld occupye eny marchaundisez othir then for the Necessarye of their household & famylie And to his knowlege no Craftesman occupied eny marchaundise in grosse or by Retaill Without agrement Interruption or Condempnacion.

ALSO Willyam Barkley Sadler sworne saith that he neuer knew oone man vse a othir man Craft without agrement or condempnacion and he saith that he hath Corn in his house & durste not sell it for trouble.

ALSO Robert Breikspere Tailyour of the age of lxix yerez sworne saith that he neuer vnto this last yere knew eny man occupye a nothir mans Craft Without Interruption or agrement And that he neuer knewe no Craftesman bye eny maner of marchaundisez othir then for the Necessarye of their houshold & famylie And that no Craftesman retailed in grosse<sup>16</sup> eny maner of marchaundisez without Interruption agrement or condempnacion.

ALSO Edward Bedloe Wever of the age of lx yerez sworne saith that he neuer knew one Craftesman occupye a othir mans Crafte Without Interruption agrement or condempnacion.

ALSO John Robson Tailyour of the age of lviiij yerez sworne saith that he beyng a Tailyour occupied the Crafte of one osteman<sup>17</sup> & was

<sup>13</sup> Sic, for 'sworne.'

<sup>14</sup> Son.

<sup>15</sup> 'A worker in cordwain or cordovan leather, a shoemaker' (Murray, 'Eng. Dict.' s.v. Cordwainer).

<sup>16</sup> This appears to be a contradiction in terms, to retail meaning 'to sell goods in small quantities' (Murray's 'Eng. Dict.' s.v.). It is here, however, used as meaning to sell again, a use not noticed by Dr. Murray.

<sup>17</sup> Otherwise 'oastman,' or more generally, 'hoastman.' 'A member of a corporation or merchant-gild in Newcastle-upon-Tyne, who had originally the functions of receiving strangers (called "hosts" or "oasts") who came to buy coal and certain other commodities, and of conducting their purchases, on which they levied a certain duty; in later times they controlled the

selling and exportation of coal' (Murray, 'Eng. Dict.' s.v. Hoastman). In the Act 23 Jac. 1, c. 3, § 12, their privilege is defined as 'the selling, carrying, lading, vending, or trading of or for any Seacoales, Stone-coales or Pitcoales forth or out of the Haven and Ryver of Tyne' (ib.). Brand (ii. 269 n.) suggests that they originated as the hosts assigned to alien merchants by the Act 5 Hen. 4, c. 9 (1404), while Camden 'Britannia' (II.) f. 1319, derives it from 'Eastman' (German Ostmann). The seal of the gild, on which a person in official dress is offering his hand to a traveller with the legend 'welcome my oste,' makes in favour of Camden's derivation, but it is not earlier than the seventeenth century.

compelled to agree with the osteman Crafte & paid to fyne vij<sup>s</sup> viij<sup>d</sup> <sup>18</sup> & sens that agrement he hath been Steward of the seid Crafte & hath sewed diuers for the occupying of the seid Crefte Without agrement.

ALSO John Browne Tailyour of the age of lx yerez sworne saith that he neuer knew one Craftesman occupye a nothir mans Crafte without agrement or Interrupcion And that no Craftesman othir then marchauntes shuld occupye eny marchaundisez othir then for the Necessarye of their household & famylie And that he agreed with the Stewardest of the Keilman Crafte that now er for the occupying of the seid Craft.

ALSO Willyam lawson of the age of fyfty yerez Glouer sworne saith that he neuer knew one Craftesman occupye a nothir without agrement or Interrupcion & that he agreid with the Keilmen for occupying of their Craft.

ALSO Willyam hall of the age of lx yerez sworne sath that <sup>3</sup> neuer knew one Craftesman occupye a othir mans Crafte without agrement or Interrupcion & that he agreid with the Cookes for the occupying of their Crafte & paid to fyne vij<sup>s</sup> and a dynner and aftir that agreid With Porters & was maid free with theym & paid to fyne vij<sup>s</sup> & a dynner.

ALSO Willyam Siluertope of the age of lxx yerez sworne saith that he neuer knew any Craftesman occupye the Crafte of a othir Without Interrupcion or agrement And that no Burgez within the seid Towne othir then marchauntes shuld occupye eny marchaundisez othir then for the Necessarye his household and famylie.

ALSO George Jobson Sadler sworne saith that he neuer knew any Craftesman bye and retail eny marchaundisez othir then for the Necessarye of his household and famylie & yf thei did thei wer furthwith sued aftir knowlege therof had And that he neuer knew eny maner of Craftesman othir then mercers Bothemen & drapers <sup>19</sup> bye & sell be yonde the see or of this syde the see any maner of marchaundisez.

ALSO Thomas horsley maire of the seid Towne of Newcastle <sup>20</sup> Botheman of the age of liij yerez Christofer Brigham <sup>21</sup> Alderman of the same Towne Botheman of the age of fyfty yerez Robert Baxster

<sup>18</sup> That is, half a mark or a noble.

<sup>19</sup> 'Craftsmen' is here used in the larger sense of belonging to a craft or mystery, not in the narrower sense of handicraftsmen. Cf. the chronicle of the Grey Friars (1556) 43, 'The mayer, aldermen an twelve craffttes,' i.e. the twelve great companies of the city of London, which included the

Merchant Taylors and Grocers. (Murray, 'Eng. Dict.' s.v. Craft.)

<sup>20</sup> Mayor 1514-15 (Brand, ii. 435). The Mayor was elected on the Monday next after Michaelmas Day under a charter of Edward 3 dated October 24, 1345 (ib. 162).

<sup>21</sup> Christopher Brigham, mayor 1511 (ib. 434).

Alderman of the same Towne mercer of the age of fyfty yerez<sup>22</sup> John Brandlyng alderman of the same Towne Botheman of the age of fourty yerez<sup>23</sup> Thomas Riddall alderman of the same towne mercer of the age of fyfty yerez<sup>24</sup> John Blaxstone Alderman of the seid Towne mercer of the age of fyfty yerez<sup>25</sup> Edward Baxster Alderman of the seid Towne mercer of the age of xliij yerez<sup>26</sup> Roger Dent of the seid Towne mercer of the age of lxiiij yerez<sup>27</sup> Willyam Pitden of the seid Towne mercer of the age of lx yerez Thomas Baxstere the yonger of the seid Towne mercer of the age of xl yerez<sup>28</sup> John Pasley of the seid Towne mercer of the age of fyfty yerez<sup>29</sup> Alane Hardyng of the seid Towne mercer of the age of lxij yerez Willyam Wardall of the seid Towne mercer of the age of fouty<sup>30</sup> yerez henry Bednall of the seid Towne mercer of the age of lxiiij yerez George Davell<sup>31</sup> of the seid Towne mercer of the age of xxxj yerez Richerd Gray of the seid Towne mercer of the age of fyfty yerez John Morpeth of the seid Towne mercer of the age of fyfty yerez John Orde of the seid Towne mercer of the age of lxij yerez<sup>32</sup> Andro Bewyk of the seid Towne mercer of the age of xxxvj yerez<sup>33</sup> John Trafforth of the seid Towne mercer of the age of xxxj yerez Robert Sotheron of the seid Towne mercer of the age of lvij yerez George Camby of the seid Towne mercer of the age of xxx yerez launcelote Greve of the seid Towne mercer of the age of xxx yerez Antony Reid of the seid towne mercer of the age of fyfty yerez Nicholas Stokhall of the seid Towne mercer of the age of xl yerez Robert Cromer of the seid Towne mercer of the age of fourty yerez John Wilkynson of the seid<sup>30</sup> mercer of the age of lxiiij yerez Robert Hornby of the seid Towne mercer of the age<sup>30</sup> lxij yeres Richerd Wrangwys of the seid town mercer of the age of liij yeres Willyam Scott of the seid Town mercer of the age of lvij yerez Willyam Carre of the seid Towne mercer of the age of xxxj yerez John Bewyk of the seid Towne mercer of the age of age<sup>30</sup> of lxj yerez Edward Bartram of the seid towne Bothman of the age of lxij yerez Thomas hyll of the seid Towne Botheman of the age of lxj yerez lewys Sotheron of the seid Towne Botheman of the age of lxij yerez Peter Chatour of the seid Towne Botheman of the age of xl yerez Perciuall Bewyk of

<sup>22</sup> Mayor 1508 (ib.).

<sup>23</sup> Mayor 1512 (ib.).

<sup>24</sup> Mayor 1521 (ib. 435).

<sup>25</sup> Mayor 1527 (ib.).

<sup>26</sup> Mayor 1522 (ib.).

<sup>27</sup> Mayor 1515 (ib.).

<sup>28</sup> Mayor 1535 (ib. 436).

<sup>29</sup> John Palstay, sheriff 1511 (ib. 434).

<sup>30</sup> Sic.

<sup>31</sup> Sheriff 1521 (ib. 435).

<sup>32</sup> A person of this name was sheriff in 1536, but as this witness would then have been eighty-three years of age, the sheriff is more likely to have been his son (ib. 436).

<sup>33</sup> Mayor 1538 (ib.).



the seid Towne Botheman of the age of xlj yerez Henry fynkill of the seid Towne Botheman of the age of xliij yerez Henry Androsone of the seid Towne Botheman of the age of xxx yerez<sup>34</sup> Robert lytler of the seid Towne Botheman of the age of xlj yerez Richard Blaxston of the seid Towne Botheman of the age of liij yerez Thomas Johnson of the seid Towne Botheman of the age of xxx yerez Robert horsley of the seid Towne Botheman of the age of xxxj yerez Thomas Sotheron of the seid Towne Botheman of the age of fyfty yerez Gilbert middilton of the seid Towne Botheman of the age of xxx yerez<sup>35</sup> Willyam hanyng of the seid Towne Bothman of the age of lxij yerez Robert Bartram of the seid Towne Botheman of the age of xliiij yerez<sup>36</sup> Willyam Eston of the seid towne draper of the age of xl yerez George Bednall of the seid Towne draper of the age of xxx yerez sworne and euery of them sworne saith that tyme out of mynd it hath been vsed Within the seid Towne of Newcastill that no Burges nor artificer othir then mercers bothemen and drapers shuld vse and occupye bying or Retailyng of eny merchaundise in grosse or other wyse butt yf it werre for the Necessariez of his house & familie nethir of this side the see ne be yonde the see And yf eny artificer or Burges so did thei wer therof furthwith afir knowlege had Interrupted or elz putt in sutt<sup>37</sup> & for the same condempned or othirwys for the same agreid & satisfied the Wardens of the seid Craftes as more Euidently it appereth by the Courtez bookes of Recordes to vs shewed Wittnessyng the seid sutez & condempnacions to agreitt nombre Which bookes the seid maire & Aldermen saeth thei haue redy to be shewed When thei shall be commanded And the seid maire and aldermen aforenamed sayen & euery of theym saith that the vse tyme out of mynde hath been that the seid Craft of drapers hath vsed to bye ne sell eny othir marchaundise or stuffe butt oonly Wollen Cloth Without agrement of sich Crafte as he Wold occupye And that the Crafte of Bothemen Which is named sellers of Corne by all the seid tyme hath not vsed ne occupied eny othir marchaundisez butt sellyng of Corne Without agrement of sich Crafte as he Wold occupye And the seid mair and othir aforenamed sayen that tyme out of mynd the Crafte and misterie of Mercers hath vsed and occupied all maner of grocery Warre<sup>38</sup> marceris ware and othir grosse marchaundise as sopp terre flakes

<sup>34</sup> Mayor 1539 (ib.).<sup>35</sup> Mayor 1530 (ib.).<sup>36</sup> Sheriff 1522 (ib.).<sup>37</sup> Suit.<sup>38</sup> Ware.

pik<sup>39</sup> Wax Iron osmondes<sup>40</sup> Waynescott<sup>41</sup> claphold<sup>42</sup> Trayne<sup>43</sup> and all othir maner of marchaundise in grosse and by Retaill and that no nothir artificer ne Craft hath occupied eny of the premissez butt oonly the seid mercers butt yf it wer to the vse of their house & household or els agreid for the same as is aforeseid.

(Signed) Edward Rad<sup>44</sup>  
John Bentley.

*Indorsed.* Nouum Castrum super Tynam.

AND furthermore for the parte of the seid maire Aldermen and othir honest persons of the seid Town is shewed one old book of diuers Articlez of a Comen Gild kept at the seid Towne the xvij yere of kyng henry the vj<sup>th</sup><sup>45</sup> And emonges other articlez it is their reherhed<sup>46</sup> that Where variaunce and discorde hath beene betwixt the marchauntes of this Gild & betwixt the Craftesmen of the same Gild<sup>47</sup> Sayng that Craftesmen that Wirkes of their hand<sup>48</sup> Craft shuld not bye & haue in the water of Tyne all thyng at the first price at the first bying like as a marchaunt that vseth no nothir Craft butt marchaundise shuld haue therfore it is declared and assented in this Comen Gild that yf plenty come into this haven of eny marchaundise or of vitailles or els scarsete of marchaundise or vitailles come In by Strangers, it shall be Resonably deliuered at the denominacion of the mair sherif Justice of peax of this Towne or by the discreeson of the most partie of theym That is to say First to the biggers<sup>49</sup> in this Towne eithir of housez or of Schippes resonable that pertayneth to their biggyng, for biggyng of shippes or of housez in this Towne that is

<sup>39</sup> Tar, flax, pitch.

<sup>40</sup> Osmondes, i.e. bars or rods of osmond or osmund, a superior quality of iron formerly imported from the Baltic in very small bars or rods for the manufacture of arrow-heads, fish-hooks, bell-gear, &c. (Murray, 'Eng. Dict.' s.v. Osmund.)

<sup>41</sup> That is, timber suitable for wainscoting. 'Wainescot brought hither out of the East counties.' W. Harrison's Description of England in Holinshed's 'Chronicles' (1807) i. 315 (1534-93).

<sup>42</sup> 'Claphold or clapholt, the same as clapboard; originally a smaller size of split oak imported from North Germany and used by coopers for making barrel-staves' (ib. s.v. Clapboard).

<sup>43</sup> That is, Train oil. 'Trayne-oyle made of the fat of whales; also a tear, liquor pressed out by the fire.' Hexham. The original sense is 'tear,' then drops

forced out in boiling blubber, &c. (W. W. Skeat, 'Concise Etymological Dictionary' [Oxford, 1901], s.v. Train-oil). This catalogue of commodities shews, as was to be expected, that the trade of Newcastle was with Northern Germany. Cf. the 'Libelle of Englyshe Polycye' in Political Poems (ed. T. Wright, 1861), ii. 171.

'Now bere and bacon bene fro Pruse  
ibroughte

Osmonde, coppre, bow-staffes, stele  
and vex,  
Peltre-ware, and grey, pych, terre,  
borde, and flex, &c.

<sup>44</sup> MS. torn.

<sup>45</sup> September 1, 1438, to August 31, 1439.

<sup>46</sup> Sic, for 'rehersted.'

<sup>47</sup> This appears to be the Gild-Merchant.

<sup>48</sup> An erasure of a word follows.

<sup>49</sup> Builders.

most necessary to be vpholdyn shall be preferred, Sithen<sup>50</sup> the marchaunt in his clere<sup>51</sup> marchaundise, Sithen euery man of Craft resonable for his sustentacion and propre vse to spend in his house And not for to sell agane to Strangers as by the seid Act it is more pleynley expressid Which Act the seid mair and Aldermen sayen thei Will haue redy to be shewed When thei shall be commaunded.

AND as to the Interrogatorie<sup>52</sup> Whethir thei had this by the Comen assent ye or noo to that We say that all and euery thyng that We can gett knowlegge of appereth in the seid Act of the Comen Gild hertofore rehersed tochyng the seid Interrogatorie.

AND as to the Interrogatorie Whethir bying and sell yng of mercers drapers and Bothemen stond With Comen Well or no all othir Craftes except to this Article aswell for the parte of the seid maire and Aldermen as for the partiez of the seid Artificers Cominers and Gild marchauntes diuers Reasons by theym selffes afore vs hath been shewed And by no nothir person or persons butt oonly by theis that be the partiez Soo that for difficulte therof We the aforeseid sir Edward Radclyff and John Bentley can not fully certifie in this behalff.

AND as to the othir Interrogatoriez Whethir mercers drapers and Bothemen may haue a title of prescripcion or no seyng the men of lyve<sup>53</sup> Which haue Without Interrupcion occupied bying and sell yng frely Within tyme of mynd And Whethir a man may prescribe ayenst the kynges letters patentes ye or no To that We the foreseid sir Edward Radclyff and John Bentley sayen that theis Interrogatoriez be so<sup>54</sup> diffuse to be knownen by Examination of Wittnessez And as We thynk thei be diffuse<sup>55</sup> causez concernyng the Comen lawe Wherin We for the Causez aforeseid can not asserteyne accordyng to our commaundment in this behalff.

(Signed)

Edward Radclyff

John Bentley.

<sup>50</sup> Since, that is, afterwards.

<sup>51</sup> Apparently here in the sense of 'genuine,' expressed above by the words 'that vseth no nothir craft butt marchaundise.'

<sup>52</sup> This and the two following interrogatories are printed in F. The next

paragraph and the concluding one shew that they had been draughted in London and sent down to the commissioners.

<sup>53</sup> Alive.

<sup>54</sup> Sic, apparently for 'too.'

<sup>55</sup> Qu. a mistake for 'divers' in the second place if not in the first.



F.<sup>1</sup> Articles to be examyned by sur Edward Radcliff knyght and John Benteley Gentilman for maters of variaunce bitwene the maire mercers and bothmen of Newcastle of the one partie and the Artificers Comburgenses and Guyldmerchauntis of the seid Towne on the other partie.

Furst Whether the said maire marchauntis Drapers and Bothemen haue vsed tyme out of mynde to bye and to sell frely aswell a thisside the see as beyonde the see And non other craftes but only they and noo moo.

Also Whether their bying and selling (All other craftes excepte) doo stonde with the Comon Weale, or noo.

Also Where they hadde this, And Whether it were so admitted by the Comon assent or noo.

Also Whether the mercers Drapers and Bothemen may haue a title of prescripcion, or noo.

Also seying the men on lyve Whiche euer Without any interrupcion haue occupied bying and selling frely Without tyme of mynde, or noo.

Also Whether a man may prescribe agaynste the kingis lettres patentes or noo.<sup>2</sup>

G. Examynacion of wittnessez sworne Afore sir Edward Radcliff knight and John Bentley Gentilman of and for the partie and Interest of the Artificers Cominers And gilde merchauntis of Newcastle byforce of two seuerall writtes of dedimus potestatem to thame directed to Enquyr and Examine vpon certain Interrogatorie comprised and specified in a bill of complaint made by the maire Aldermen and certain honest persounes of the said towne against the said Artificers cominers & gilde marchauntes.

To the first Article whether it hathe bene vsed tyme out of mynde that eury Burges of the towne of Newcastle for the tyme

<sup>1</sup> These are the articles on the parchment A (S.C.P. Hen. 7, No. 106), being the defendants' interrogatories.

<sup>2</sup> In Coke's time the answer was in the affirmative, it being held that no forfeiture can grow by letters patent, and prescription is a good title. 2 Inst. 47, on Magna Charta, cap. xxix. 'Nullus liber homo

. . . disseisietur de . . . libertatibus vel liberis consuetudinibus suis.'

The commissioners in their appendix to E. give reasons for returning no answers to the second, fourth, and sixth of these interrogatories, of which the fourth and sixth are questions of law.

leying hathe vsed to occupie eny misterye or craft othir thein the craft that he is of without thagrement of suche Craft that he desireth to be of or not.

To this article Afore vs the foresaid sir Edward Radcliff and John Bentley it is fully confessed graunted and Agreed, Aswell by the maire Aldermen and honest persounes of the said towne as by the Artificers Cominers and gilde merchauntes of the said towne of Newcastell that tyme out of mynde it hathe bene vsed that no Artificer or Craftisman of the said towne hathe vsed to occupie the Crafte or mistery of oone othire without Agrement of the said Craft whiche he desyreth to be of.

And as for the othire Interrogatorie<sup>1</sup> for the partie of the said Artificers and Cominers<sup>1</sup> John Wardley of the said towne of Newcastle Cowper of thage of lxxxij yeres Sworne Apon a boke sayeth And deposeth that he was prentis and seruante to oon John Cloncroft of the said towne Cowper whiche bought Corne Salt Sopp and Tarre and Retailled the said Corne to men of Northumbre and was neuer Interrupt be the maire Schereffe nor othire officer for the occupying of the same as ferr as he knowith nor agreed with non occupacion bod<sup>2</sup> with his awne Craft.

Also John Stroder Smythe of thage of lxxx yere Sayethe that Robert lovell of the said towne dyer bought and Retailled Irne<sup>3</sup> Corne at their pleassour without any Interruption and agreed with no man and John Nixson and William Hutton of the same towne dyers and William Baweon Baxster bought Corne and Retailled the same without any Agrement as ferre as he knewe.

Alsoo Thomas Vscher of the said towne weuer of thage of lxxij yeres Seyeth that oone Thomas Denton of the said towne Smythe bought Irne Soopp tarre and Flax all tymes during his lyffe and Caryed the same with his awne wayne to Carlisle and there Retailled at his pleassour without any Interruption And at oone tyme he bought in Carlisle a greate quantitie of Schepe Skynns and brought thame to the said towne and offirte thame to the marcers to Sell and thai wold not by his price and thene he Customed the said Skynns & shipped thame in a duehe<sup>4</sup> Schipp and Retailled thame beyond the See without any Interruption, And frawght the said Schip home again with Irne the same day vj weekes he come to Tynemouth that he went

<sup>1</sup> S.C.P. Hen. 7, No. 106. The 'first article' is the first interrogatory already printed under D. 'The othire interrogatorie<sup>z</sup>' which follow are those printed in D.

<sup>2</sup> but.

<sup>3</sup> 'and' omitted.

<sup>4</sup> The word at this time included both Germany and the Netherlands, distinguished as High Dutch and Low Dutch respectively.

further and Retailled the said Irne at Carlile at his pleasour And in the said towne of Newcastle the said Thomas had Foure harthes<sup>5</sup> going And the said Thomas for the said occupying made none agreement.

Also the said Thomas sayeth that Robert Thewe of the said towne Bootlere<sup>6</sup> bought and Retailled all maner of merchandise without any Interruption and kept ane oppin Schoopp for Retailling of the same and at dyuerse Tymes bought merchandise at london And oone tyme he bought preeses<sup>7</sup> and when the preeses come home the Cariour wold haue money for Carying of the sand<sup>8</sup> was in the said preeses And the said Thewe neuer agreed with none occupacion as ferre as he knowith bi his othe. And william Kendaill Tinkare bought all maner of Spicez and Retailled the same in the said towne.

Alsoo william pape of the said towne glouer of thage of lxiiij yeres Saithe that he bought Scheepe Skynnys and Allome at diuerse tymes And the Stewardes of the marcers comenced ane Accion Against hym and was at ane Issew and was gevin be verdict of thenquest that thos Skynnys that were good he shuld occupie and that thos that were Evill to selle And he shuld sell Allom in his house So he kepte non

<sup>5</sup> Probably so assessed to Peter's pence, which was a penny on every hearth, whence called hearth-money (H. Spelman, 'Glossarium' [ed. 1687], s.v. *Romescot*). It was abolished by statute 25 Hen. 8. c. 21 (1534), 'An Acte for the exoneration frome exactions payde to the See of Rome.'

<sup>6</sup> From what follows this may be conjectured to mean a person who either bottled or imported wine in glass bottles, or made or sold glass bottles. See nn. 7, 8. The 'botellers' were in 1415 one of the York Mysteries ('York Myst.' *Introd.* 22. Murray, 'Eng. Dict.' s.v. *Bottler*). But this would at that early date probably mean makers of leathern bottles. There was a craft of Vintners at Newcastle (Brand, ii. 361), and it may be that the witness intended to suggest that this was the craft whose province the 'Bootlere' was invading. Glass bottles were among the effects of Henry 8 in 1542 ('Archæological Journal,' xviii. 154). 'Ale in glass bottles was sold generally in ordinaries in Elizabeth's time' (A. Hartshorne, 'Old English Glass' [1897], p. 221, n. 2). Glass bottles may therefore have been used for wine as early as Henry 8's reign. 'In the list of the goods of Dame Agnes Hungerford, executed for murder at Tyburn in 1523, a "presse full of glasses with waters in them" is mentioned' ('Archæologia,' xxxviii. 366. Hartshorne, p. 142, n. 3). These must have been bottles. Small

bottles or phials were, of course, of earlier date. A hundred years later (1615) Newcastle became the seat of a glass manufacture which migrated from the south, probably on account of the cheapness of coal (ib. 177). But this immigration may have been suggested by the existence of a local industry already. There was a 'Glaziers' craft, of which the records go back to 1536, mainly, it is probable, engaged in making glass for windows.

<sup>7</sup> Perhaps here used in the sense of 'packing-cases.' Murray ('Eng. Dict.' s.v. *Press*), gives 'An instrument used to compress a substance into smaller compass, denser consistency, a flatter shape, or a required form; usually distinguished by prefixing a qualifying word, expressing purpose, as baling, coining, copying, packing, &c.' If this be the sense, the witness means that the 'bootlere' bought packing cases containing glass bottles packed in sand. On the other hand, Murray, s.v. *Press*, says that a press in Scotland (and probably therefore, in Northumberland) was a large, usually shelved, cupboard for 'provisions, victuals, plates, dishes, and other table requisites.' Early in the seventeenth century glasses 'came direct from Venice in cupboards' (Hartshorne, pp. 193, 468, n. 3. See also n. 6, *supra*).

<sup>8</sup> Sand was, and occasionally still is, used for laying down wine; in this case to insure the safety of fragile wares.



oppen Schoppe for Retailling And aftere that he bought Skynnes Allom and Corne and Retailled the same bothe in Hexham Alnewyk and othere placez at his pleassour without agreement or any Interrupcion made and laidded a shipp with Collis without any Agreement or Interrupcion.

Alsoo Thomas lighton Smythe late schereffe of the said towne,<sup>9</sup> Sayeth That Thomas leyng william marche Alexander hogg Smythis of the said towne and he hathe bought at diuerse tymes iiij or v Tonnyes of Irne at oones and Retailled the same at their pleassourz without any Interrupcion or Agreement with any occupation xxx yere by past John Carlile being maire<sup>10</sup> and John Cartington<sup>11</sup> Recorder and thenne william dauell<sup>12</sup> william Carre<sup>13</sup> and William swane merchauntes Complened to the said Officers of the said Smythis for Retailling of the said Irne And thene the said maire and Recordere said if thai had bought a shippful Irne thai shuld haue it without Interrupcion.

Also dauid mane of the same towne Schomaker Sayeth that he bought Wax Flakkis Tarr Irne hoppis<sup>14</sup> and Corne be the space of xvj yere without any Interrupcion or Agreement The said dauy serued my lord darcy house in Berwyke<sup>15</sup> with hooppis. Robert dalton was Steward to my lord and payed for thame.<sup>16</sup>

Alsoo John Robson of the said Towne Tailliour Saithe that he, Richard Robson Tailiour and henry Redepeth Tailliour hath bought Clothe lynyn and wolnyng<sup>17</sup> hattes Bonnettes Knyffes Spicez Silkis velwettes Flakes Corne and other merchandise xx<sup>ti</sup> yere to gedir without any Interrupcion ore Agreement The said henry Redpeth kepte thre oppin Schoopis for Retailling of the same within the said towne, oone tyme the said John affraed with the Stewardes of the

<sup>9</sup> Thomas Leighton, sheriff 1508 (Brand, ii. 434).

<sup>10</sup> John Carlisle, mayor 1480 (ib. 430).

<sup>11</sup> One Cartington was admitted a student of Lincoln's Inn in 1 Ed. 4 (1461) (Lincoln's Inn Admission Register [1896], i. 15). The family appears to have held land in Tynemouth in the fifteenth century (Craster, pp. 259, 424, 425). Brand's list of the Recorders is blank between 1466 and 1517, when Thomas Tempest was appointed.

<sup>12</sup> William Davel, sheriff 1497 (Brand, ii. 432).

<sup>13</sup> William Carre, sheriff, 1527 (ib.).

<sup>14</sup> Hops were imported from Holland and Flanders. Cf. L. and P. Hen. 8, x. 1214 (June 27, 1536).

<sup>15</sup> This was Thomas Darcy, lord Darcy,

who was beheaded in 1537 for his leadership of the Pilgrimage of Grace ('Dict. Nat. Biog.'). When in 1495 Henry duke of York, afterwards Henry 8, was made warden of the Marches and governor of Berwick, Sir Thomas Darcy was appointed his deputy, as captain of the town and castle (J. Scott, 'Hist. of Berwick-upon-Tweed' [1888], p. 106). These offices were confirmed to him by Hen. 8 (L. and P. Hen. 8, i. 190), and on June 18, 1509, he was also made warden-general of the East Marches, to defend the town and castle of Berwick in case of siege (ib. 189). He retained the captaincy of Berwick till 1515 (ib. ii. 549). See further, 'Dict. Nat. Biog.' s.v. Darcy.

<sup>16</sup> them.

<sup>17</sup> woollen.

Bothemen for bying of Corne, and for thaffray he was set in prison And after lettyn goo without any Agrement.

Alsoo the said John Sayeth that Robert Thomson of the same Towne tailliour occupied and bought all maner of merchaundise and Retailled the same at his pleashur without any Interrupcion.

Alsoo John Ewington of the said Towne sklater Sayeth that he bought Corne Flakkys and hemp And Retailled the same, without any Interrupcion or Agrement.

Alsoo John Braidley Baxster Sayeth that oone John langton baxter bought and Retailled all maner of Corne and Grayne ouer the necessary of his houshold & famylie without agrement or Interrupcion to his knowledge and othe.

Also Robert wys Smythe Sayeth that he bought the space of xx<sup>ti</sup> yere Irne Pykke Tarre Flakkes Coollis and Retailled the same without any Interrupcion or Agrement to this yere.

Alsoo John Watson Walker Sayeth that he bought all maner of Corne Flakkis Clothe Wax Soopp Irne Peper Safron with all othire merchaundise without any Interrupcion vnto mastere Brandling was maire<sup>18</sup> and thene he arested hym and thene the said Watson wowed<sup>19</sup> the said byinge and after Retailled at his pleashur without any Interrupcion or Agrement vnto this yere last past.

Alsoo Thomas Skelton Skynner Sayethe that he bought madere<sup>20</sup> Soopp with othire merchaundise and Retailled the same without any Interrupcion or Agrement made to eny person othir thenne his owne Craft.

Alsoo Henry Woodroffe Tailliour John hogg Tailliour and John dobson tailliour haith bought beyond the See Flakkis Soopp Irne Tarre Pykk osmundes worset<sup>21</sup> Fustians<sup>22</sup> Corne with othir merchaundise and Retailled the same within the said towne at his pleasure without any Interrupcion to now Thomas Horsle being maire Anno Sexto henrici Octau<sup>23</sup>.

Alsoo henry Tailliour Smythe Sayeth that John dodes his master and he hathe bought Flakkis Rossell<sup>24</sup> and other merchandise and Retailled the same without any Interrupcion or Agrement.

Alsoo Richard kendaill keilman Sayeth that he bought Corne lynt<sup>25</sup> with othire merchaundise and Retailled the same he was arested at oone tyme and not ferther Interrupted.

<sup>18</sup> 1512.

<sup>19</sup> avowed.

<sup>23</sup> Thomas Horsley, mayor 1514-15.

<sup>20</sup> madder.

<sup>21</sup> worsted.

<sup>24</sup> Rosin (J. O. Halliwell, 'Dict. of Archaic Words' [1850], s.v. Rosin).

<sup>22</sup> 'Coleyne threde, fustiane, and can-vasc' are enumerated as among the imports from Prussia in the 'Libelle of Englyshe Polyeve' (Wright, p. 171).

<sup>25</sup> 'Linen scraped into soft woolly substance to lay on sores' (Dr. Johnson's Dict., ed. R. G. Latham [1870], s.v. Lint).

Alsoo Thomas dennand Cardmaker dauid Trollopp Schereman <sup>26</sup> and William Anderson Smyth Sayeth that thai bought Barlee and other merchaundise and Retailled without any Interruption or Agreement.

Also Alexander Johnson wright <sup>27</sup> Sayeth that he hathe bought Barley waynscotte ouer the necessary of his houshold and famylie and Retailled the same without any Interruption.

Also Edmund dune Cordwaner Saith that he bought Clothe ynnynng and wolnyng Flakkis Corne with othire merchandise and Retailled the same without any Interruption or Agreement.

Alsoo Thomas Thomson Couper haith bought pikk Tarre Rossaill waynscottes lynt Counters <sup>28</sup> and Retailled the same without any Interruption or Agreement.

Alsoo Robert Johnson Bakere sayeth that he bought Flakkis Soopp Pikk Tarre waynscott Claphout osmundes Corne and othere merchaundise and Retailled the same and was neuer Interrupt.

Alsoo Henry Johnson Bakere Sayeth that he bought Flakkis Corne and othire merchandise and Retailled the same without any Interruption.

Also John Chattour walker <sup>29</sup> and John Blitheman Bocher Sayeth thai bought Corne Flakkys ouer the necessary of their housholdis and famylie and Retailled the same without any Interruption.

Alsoo Robert Poottes Schomaker Rauffe Thomson girdler and Thomas morgane Tailiour hath bought lynt Sopp Tarre Corne with othire merchandise and Retailled the same without any Interruption.

Also Robert Sadman Baxster <sup>30</sup> Saithe that he bought Soopp Tarre Irne hattes Bonnetes Flakkis peper Corne with othir merchandise and Retailled the same without any Interruption And his master Thomas Harbred occupyed siklike. <sup>31</sup>

Alsoo George Honghill walker Sayeth that he bought Soopp Tarre Flakkis and Corne and Retailled the same this xxx yere and was neuer Interrupt.

Alsoo John Cristing sklater Sayethe that he and John Chekin pooderire <sup>32</sup> and John Robson diuerse tymes hath bought & laidin Shippis with Corne and other stuff and Retailled the same and was Neuer Interrupte.

<sup>26</sup> A shearer of cloth.

<sup>27</sup> That is, a joiner, which accounts for his dealing in wainscot.

<sup>28</sup> 'A tabyll callyd a countour' ('Bury, Wills,' 98. Camd. Soc. 49 [1850]. Murray, 'Eng. Dict.' s.v. Counter). Halliwell, however, gives 'a coverlet for a bed,' which the proximity of lint seems to make the more probable here.

<sup>29</sup> Fuller. So called from the process of treading the cloth with the feet in wet troughs.

<sup>30</sup> 'Baxter the regular Northern and especially Scottish equivalent of baker' (Murray, 'Eng. Dict.' s.v.).

<sup>31</sup> suchlike.

<sup>32</sup> Powderer, i.e. salter. To powder meant to salt or cure (Murray, 'Eng. Dict.' s.v.).



Also John langton Bakere and william langton goldsmythe Sayeth that there father John langton Bakere bought and Retailled the space of xxx yere lyne<sup>33</sup> Tarre Soopp with other merchandise and was neuer Interrupt. Robert Slayne Thomas grene Robert Grene Robert Hobson Allene howet and John lymon Bakers occupied siklike without any Interruption And Furthermore thai saye thai occupie siklik without Interruption to now of late within this two yeres. And for Cause thai are Interrupte thai knowe not.

Alsoo Christofer serveke Smyth Sayethe that he bought lynt pykk Tarre Soopp Corne with othere merchandise ouer the necessary of his houshoold without any Interruption or Agreement And John doodes Smythe of the Said towne his master occupied Siklike all his dayes without any Interruption or Agreement.

Alsoo John Robinson weuer of thage of lx yere Sayeth that he know Alexander hogg Smythe Thomas leyng Smythe and others Craftismen bying and Retailling of Irne lynt Soopp and Tarre with all other merchaundise ouer the Necessary of there houshooldes and famylie without any Interruption or Agreement.

Alsoo William Thomson Schomaker and Rauffe Poottes Schomaker Sayeth that thai bought Flax and all maner of Corne and Retailled the same within the said towne at there pleassur without any Interruption.

Alsoo John dobson of the said Towne Tailiour Sayeth that he hathe bought and occupied all maner of merchandise within the said towne as Soopp Tarre Flakkis Irne Clothe and other stuff without any Interruption. And at oone tyme the said John went in a Shipp of Robert hardene Botheman and Aulderman of the said Towne<sup>34</sup> to denmarke with Clothe which clothe he Customed in the kinges bookes and there he fraught a quarter and a halffe quarter of the said shipp with Rye and payed to fraught vij<sup>li</sup> xiijs iiij<sup>d</sup>. Alsoo Another tyme he and Christofer Raw marcere and John Side fraught a shipp in to Norway. Also the said John hathe bought merchandise at hull london and other portez of Inglound this xvj yere and more and Retailled the said Rye and merchandise in the said Towne and was neuer Interrupt nor agreed with no Craft.

Alsoo Richard Awmery of thage of lxx yere weuer sayeth that he bought Corne xij yere by paste and Retailled the same without any Interruption or Agreement. Also he bought & Retailled Soopp Irne Flakkis without any Interruption.

Also John Ellyson maryner of thage of xlvj yeres Sayeth that he

<sup>33</sup> Linen.

<sup>34</sup> Robert Harding, sheriff 1491 (Brand, ii. 431).

bought pikk Tarre Flakkis hemp Soopp Osmundes wax and other stuff and Retailled the same without Interruption to Now the stewardestes of the Botheman<sup>35</sup> hathe sewid hym be<sup>36</sup> writt which sute he hathe non suyt.<sup>37</sup>

Alsoo Robert Watson Fuller Schereffe of the said Towne<sup>38</sup> of thage of liij yeres saithe that John watson his brother fuller hathe bought and Retailled certain merchaundise all the dayes of his lyffe without Interruption to his knowlege. Also he hath occupied Sithis<sup>39</sup> wax Flakkis and other merchaundise without any Interruption or agreing with any Craft.

(Signed) Edward Radclyff  
John Bentley.

H. <sup>1</sup> Interrogatories for the examynacion of the Comoners of the towne of Newcastle vppon Tyne of and for Riottes confederacies and Conuenticles by theym commytted and done to and ageynst the Maire aldremen and certeyn worshipfull Comoners of the said towne and agenst the good rules order and Auncien Custumes of the same towne.

- j. First whether Daid Man Cordewaner<sup>2</sup> William Thomson Cordener<sup>2</sup> Rauf Thomson Girdeler<sup>2</sup> John Haton Wever John Robson Tailour<sup>2</sup> Henry Johnson Baker<sup>2</sup> Robert Sednam Baker<sup>2</sup> Robert Russell Wever Thomas Thomson Berebruer John Dobson Tailour<sup>2</sup> John Watson Fuller<sup>2</sup> Richard Cressop Tanner assembled theym self togeder at Loyesmounte<sup>3</sup> a myle from the said towne in Ester Weke  
ij. last past and what communicacion they had there against the said Maire and aldremen concernyng the breking of the good rules and  
iij. Custumes of the same towne and wheder they promysed to geder that every of theym wolde take one parte eueriche<sup>4</sup> with oder against the said Maire and aldremen and all oder that wolde take their parte agaynst the opynyon of the said Daid Man and anoder  
v. persones their Companyons and Confederates beforesaid and what was their opynyon and purpose that the said Daid Manne and the said company thenne concluded vppon and determyned shuld be holden and brought aboute.

<sup>35</sup> Sic, presumably for 'Bothemen.'

<sup>36</sup> by. <sup>37</sup> non-suited.

<sup>38</sup> 1514-15 (Brand, ii. 435).

<sup>39</sup> Seythes.

<sup>1</sup> S.C.P. Hen. 8, Bdle. xviii. No. 260. If these interrogatories were ever answered, the answers have been lost.

<sup>2</sup> A witness for the defendants; see pp. 97-101.

<sup>3</sup> Jesmond. 'A pleasant village on the North East of Newcastle, distant from it about two miles' (H. Bourne, 'Hist. of Newcastle' [1736], quoted by Brand, ii. 620).

<sup>4</sup> Each: Anglo-Saxon (Halliwell, s.v.).

- v. Item wheder they and euery of theym thenne promysed to labour their seuerall felashippes<sup>5</sup> to take their parte and opynyon to bring their purpose aboute or not.
- vj. Item wheder after this at diuers tymes within the same towne at the White freers<sup>6</sup> and oder places the said Dauid Manne and his aforesaid Confederates laboured their whole felashippes to take their said parte and evill purpose.
- vij. Item wheder after this labour and dryft<sup>7</sup> in their evill purpose there was assembled to geder of the said whole Felashippes of alle their said Craftes to the nombre of ccc and aboue at the said white Freers and Howe many made promyse euery to oder to take one parte in evill and good against the said Maire and aldremen and alle oder that wolde take their parte.
- viii. Item Howe often tymes after the maner beforesaid they assembled to geder to bring their said evill purpose aboute and to what nombre of persones they were that so assembled to geder.
- ix. Item wheder they made eny othes or writinges to obserue and kepe their opynyons and evill purpose, and what was their othes and writing that they made to be obserued and kept.
- x. Item wheder there was agrement made amonges theym that every persone there assembled shuld be and appere at the next Guylde day to thentent and purpose that whatsoeuer shuld be thenne comoned of the said good rule and order of the said towne shuld not take effect, but after their owne wilfull purpose and myndes or not and wheder it was spoken and saide amonges theym that the Maire and aldremen shuld goo into the Halle with white heddies and shuld com oute with redde heddies and sayng we bene as good men now as they were that slewe and killed their Maire before that tyme.<sup>8</sup>
- xj. Item wheder the said Maire and his bredern by thaduisse of their Recorder sent for thise persones now to be examyned and xl more of their opynyon in the mornyng of their Guilde day that is to sey the xvj day of April last past<sup>9</sup> to mete with the Maire and his brethern at saint Nicholas chirche to haue good comunicacion with theym and wheder at their assemble and comyng to geder at the said chirche the said Maire and his bredern by the mouthe of their Recorder moved and desired theym to cease of suche Confederacies and croked opynyons declaryng to theym yf they wolde not leve suche opynyons confederacies and Conuenticles as they had made and

<sup>5</sup> Gilds.<sup>6</sup> Near the West Gate (Brand, i. 58).<sup>7</sup> design.<sup>8</sup> This incident is not recorded in Brand.

Qu. is it a confused reminiscence of Mayor Walworth and Wat Tyler?

<sup>9</sup> 1515.



promysed the good order and rule of the towne shuld be lost and destroyed and the Maire and his bredern coulde do no good nor order nor rule according to theire Duties and othes made nor durst and further shewing to theym whatsoeuer reasonable thing that they wolde desire at the comynng of the Iustices of assise whiche were lerned as they wold think thereyn it shuld be folowed and done withoute eny oder besynes and required theym that they myght peasibly procede, at theire comen Gilde Halle for the conseruacion of the said towne and good rules and ordres thereof according to theire Auncient Custume that day yerely vsed and to set aparte all suche neue besynes as that thenne they hadde begonne. For if they of theire pollacy wolde not exhorte theire said Companyes to desiste and leue theire said wilfull opynyons the said Maire and his brethern durst not com at the said Guilde Halle that day to the whiche the said Daudid Manne and alle thoder his Company thenne being there vtterly denyed to do and said they wolde haue theire myndes perfourmed after theire singuler appetites at the said Guilde day. For whiche cause and oder the premysses the said Gilde day was not kept. For the Maire and his bredern durst not com there Seing the vnreasonable and wilfull demeanure of the Comons and theire said Conuenticles and Confederacies made to bring theire evill purpose aboute.

(No indorsement.)

I.<sup>1</sup> Termino Hillarii vij<sup>o</sup> Henrici Regis octau.  
Duodecimo<sup>2</sup> sept. Februar. (1516).<sup>3</sup>

This day the matter of Newcastle was comuned of, and the old decree<sup>3</sup> red & every Article thereof examined to the intent that it might appeare to the lords how the same was observed in every behalfe aswell by the Burgesses as the Comons of the same Towne, Whereupon because an Article was that they should exhibit before the Lordes the Confirmacion of theire liberties granted to them by our soveraigne Lord the King that now is one William Dent brother to the Maior of New Castle<sup>4</sup> by his comandment did not only bring in the Charter of the said Confirmacion but alsoe all other theire Charters of

Decree touching the Burgesses and Comons of Newcastle.

<sup>1</sup> This document is transcribed from 'A Collection of forms and precedents of the Star Chamber by Isaacke Cotton, clerk of the Star Chamber for 30 years, dated September 20, 1622' (Brit. Mus. MS. Lansd. 639, fo. 45).

<sup>2</sup> Apparently a mistake for 'decimo septimo.'

<sup>3</sup> October 20, 1342. See p. 81, n. a, supra.

<sup>4</sup> The mayor of Newcastle in 1515-16 was Roger Dent, E, p. 90, n. 27, supra. See also K, p. 118 infra.

liberties to them granted by the kinges Progeniters amounteing in the whole to 23 with one that was her before; he brought in alsoe accordeing to one other Article contained in the said decree a bill conteyneng the Accompt of such sommes of money as were spent of the Comon money of the Towne in the said suite and what remained of the same in the Common Box there.

Cant. Canc.<sup>5</sup>

Winton.<sup>6</sup>

Dunelm.<sup>7</sup>

Abas West.<sup>8</sup>

Dux Norff.<sup>9</sup>

Com. Surrye.<sup>10</sup>

Com. Salop.<sup>11</sup>

Prior seti Johis.<sup>12</sup>

Dns. Burgaveny.<sup>13</sup>

Dns. Hastings.<sup>14</sup>

Tho. Lovell mil.<sup>15</sup>

Edws. Poyninges mil.<sup>16</sup>

Henry Marny mil.<sup>17</sup>

Edus. Belknap mil.<sup>18</sup>

Tho. Parre mil.<sup>19</sup>

Tho. Nevill.<sup>20</sup>

Tho. Bolleyne mil.<sup>21</sup>

Tho. Wenham mil.<sup>22</sup>

Wills. Saundes.<sup>23</sup>

Fineux.<sup>24</sup>

Erneley Attor.<sup>25</sup>

Port Soll.<sup>26</sup>

<sup>5</sup> William Warham, Archbishop of Canterbury, Chancellor, January 21, 1504, to December 22, 1515.

<sup>6</sup> Richard Foxe. See p. 9, n. 6.

<sup>7</sup> Thomas Ruthall. See p. 11, n. 7.

<sup>8</sup> John Islip. See p. 11, n. 10.

<sup>9</sup> Thomas Howard. See p. 109, n. 20.

<sup>10</sup> Thomas Howard. See p. 109, n. 22.

<sup>11</sup> George Talbot. See p. 11, n. 12.

<sup>12</sup> Sir Thomas Docwra. See p. 12, n. 14.

<sup>13</sup> George Nevill. See p. 109, n. 25.

<sup>14</sup> George Hastings, Lord Hastings, p. 1488, created earl of Huntingdon in 1529; died March 24, 1544½. G. E. C., 'Complete Peerage.'

<sup>15</sup> Sir Thomas Lovell. See p. 109, n. 28.

<sup>16</sup> Sir Edward Poyninges, the celebrated lord deputy of Ireland, only son of Robert Poyninges and his wife Elizabeth, only daughter of William Paston (b. 1459). In October 1483 he led a rising in Kent against Richard 3. He took refuge in Brittany, and landed at Milford Haven with Henry 7 in August 1485. He was at once made a knight-banneret and a privy councillor. He was deputy of Calais in 1493 and in 1494 was deputy of Ireland, Prince Henry being nominated viceroy. He was the author of the law famous in the history of Ireland as Poyninges' Law. He drove Perkin Warbeck out of Ireland in 1495, was frequently employed in diplomatic service in the Netherlands, and died at his manor of Westerhanger, Kent, in 1521. He left no children ('Dict. Nat. Biog.').

<sup>17</sup> Sir Henry Marny. See p. 110, n. 29.

<sup>18</sup> Sir Edward Belknap, as we learn from the Act for his restitution, 6 Hen. 8, c. 21 (1515), was the great-grandson and heir of Sir Robert Belknap, Chief Justice of the Common Pleas. Sir Robert had been attainted by statute 11 Ric. 2, c. 3; his attainder had been reversed by statute 21 Ric. 2, c. 12, which reversal was itself reversed by statute 1 Hen. 4, c. 2. The statute of 1515 confirmed that of 21 Ric. 2, c. 12, and restored Sir Edward to Sir Robert Belknap's estates. As we learn from the Restitution Act, Edward was the son of Henry Belknap of Weston, Warwickshire. He first appears in the Letters and Papers of Henry 8, in a nomination to the commission of the peace for that county on July 8, 1509 (ib. i. 282), and in subsequent years, he being a considerable landowner in the county (ib. ii. 95). He was then a squire of the Body, and on August 15 following was appointed constable of Warwick Castle and master of the hunt (ib. i. 419). He was also 'overseer of the prerogative of the late king,' in which capacity he seems to have settled his private accounts (ib. 4116). When war was being prepared against France in 1512 he had orders 'to make and send' fifty men (ib. 3231). He was in the vanguard of the army (ib. 4327) and apparently in command of 200 men (ib. 4307). He was one of those knighted at Tournay upon its capture in September 1513 (ib. 4468), and was 'master of the ordnance' (ib. ii. p. 1512). He was back in England in February 1514 (ib. i.

4829). He succeeded Sir Robert Southwell (see p. 13, n. 19) in his office of joint-surveyor of the Crown possessions on November 23, 1514 (ib. 5619), and on December 13 following was granted an annuity of 100*l.* (ib. 5689). He also acted as treasurer of war (ib. ii. 2694). This restitution to Sir Robert Belknap's estates was a further reward of his services. As surveyor of the Crown lands he was, on May 22, 1515, placed on the commission of sewers for Northants, Cambs, and Lincolnshire (ib. ii. 495). He was now a knight of the Body (ib. 617), and received on June 25 following a grant of an annuity of 200*l.* out of the tonnage and poundage of London (ib. 618). With Sir John Daunce he had the 'oversight of the occupiers of the butlerage, after Southwell's death, for which they received a salary of 100*l.*' (ib. 1127). He was nominated on the commission of the peace for Leicestershire on November 28 of the same year (ib. 1213), and was chief butler of England in 1518 (ib. 4461). He was one of the commissioners appointed November 9, 1518, to re-deliver the city of Tournay, &c., to the French on payment of 50,000 francs (ib. 4564, 6). An account of the execution of this commission, in a dispatch to Wolsey of February 4, 1519, is in ib. iii. 58. When a search was made for suspected persons in London in the following July he undertook the examination of persons arrested in Southwark (ib. 365, 19). He was in attendance upon Cardinal Campeggio during his visit to England, who on his departure from Dover commended Sir Edward to the king as having been 'very attentive' (ib. 433). He was a commissioner to make arrangements for the Field of the Cloth of Gold in 1520 (ib. 702, 3), and was one of the knights representing Warwickshire in attendance on the king (ib. 703). The arrangements at Guisnes were committed in part to his control (ib. 704). At the subsequent meeting of Henry with Charles 5 at Gravelines in the same year Belknap superintended the banqueting house, &c. (ib. 804; cp. p. 337). He died on March 26, 1521 (ib. iv. 1276).

<sup>19</sup> Sir Thomas Parre, or Parr, was eldest son of Sir William Parr by Elizabeth, daughter of Henry, lord Fitzhugh. He was knighted and was sheriff of Northants in 1509. He was master of the wards and comptroller to Henry 8. He married Maud, daughter and co-heir of Sir Thomas Green, of Boughton and Green's Norton in Northants, who brought him large estates. By her he was father of Queen Katharine Parr and of William Parr, marquis of Northampton. He died in London on November 12, 1518 ('*Dict. Nat. Biog.*').

<sup>20</sup> Sir Thomas Nevill, see p. 111, n. 30.

<sup>21</sup> Sir Thomas Bolleyne, or Boleyn, second son of Sir William Boleyn of Blickling, Norfolk, by Margaret, daughter and coheir of Thomas Butler, earl of Ormonde; born 1477; was ambassador to the Netherlands with Sir Edward Poynings in 1512-13; created viscount Rochford on June 16, 1525, and earl of Wiltshire and Ormonde on December 8, 1529; he died at Hever Castle, Kent, on March 13, 1539. He was the father of Queen Anne Boleyn and of her brother George, viscount Rochford, both of whom were beheaded in May 1536 ('*Dict. Nat. Biog.*').

<sup>22</sup> Thomas Wyndham, probably Sir Thomas Wyndham of Felbrigg, Norfolk, son and heir of Sir John Wyndham, knt., by Margaret, daughter of John Howard, first duke of Norfolk. Sir John was attainted of treason on March 26, 15 Hen. 7 (1500), and beheaded. Thomas Wyndham was also attainted, but his attainder was reversed July 21, 19 Hen. 7 (1504), by the king's letters patent, confirmed by Act of Parliament in 1512 (4 Hen. 8, c. 14). He was knighted in 1513, appointed vice-admiral and lieutenant-general of the navy and army in the war against France, as well as 'treasurer of war in the king's army by the sea' (L. and P. Hen. 8, i. 3822, 4630). He hoisted his flag on the famous ship *The Henry Grace à Dieu* (ib. p. 812). His admiral Lord Surrey, in a dispatch from 'Dover Road' to Henry 8 dated May 27, 1514, writes of him as 'my cosin Wyndham' (ib. 5130). This powerful connexion doubtless accounts for his rapid rise. He was nominated on the commission of the peace for Norfolk in 1512 (ib. 3545), for Suffolk in 1514 (ib. p. 904), and for Essex on November 28, 1515 (ib. ii. 1213). On December 11, 1517, he was a commissioner of jail delivery for Norwich Castle (ib. 3829). He received a grant on June 27, 1519, of the wardship of Richard, kinsman and heir of Sir Robert Southwell and Elizabeth his wife (ib. iii. 347; cp. p. 15, n. 19). He was one of the knights of Norfolk in attendance upon the king at the Field of the Cloth of Gold in 1520 (ib. p. 241), but he seems to have remained in England, and as one of the Council signed a letter to Henry 8, on June 13, of that year, congratulating him on his arrival at Calais (ib. 873, cp. 895). He died early in 1522. His will, dated October 22, 1521, is printed in N. H. Nicolas, '*Testamenta Vetusta*' (1526), ii. 579.

<sup>23</sup> William Sandys, afterwards first lord Sandys. See p. 208, n. 24.

<sup>24</sup> Sir John Fineux, or Fyneux, son of William Fyneux of Swingfield, Kent; born about 1441; a member of Gray's Inn;



J.<sup>1</sup>

1516

Exemplificacio<sup>2</sup> pro Mercatoribus ville Noui Castri super Tynam.

Rex Omnibus ad quos etc. salutem. Inspeximus quoddam breue nostrum de cerciorando Dilectis et fidelibus nostris Ricardo

Eden<sup>3</sup> et Ricardo Lee<sup>4</sup> clericis consilii nostri directum et in filaciis Cancellarie nostre residens factum in hec verba Henricus dei gracia

called serjeant-at-law, 1485; sworn of the Council, 1486; king's serjeant, 1488; appointed a judge of the Common Pleas February 11, 1494; chief justice of the King's Bench, November 24, 1495; died, 1526 ('Dict. Nat. Biog.').

<sup>25</sup> Sir John Erneley, or Ernle, A.G., see p. 15, n. 20.

<sup>26</sup> Sir John Port, solicitor-general, born about 1480 at Chester, where his father, Henry Port, was mayor in 1486; a student of law at the Middle Temple, where he was reader in 1509, treasurer in 1515, and governor in 1520. He was appointed king's solicitor on June 2, 1539, and on November 26 following he signed a proclamation as a member of the Privy Council; called serjeant-at-law in 1522, and early in 1525 appointed a judge of the King's Bench and knighted. He died before November 1541, having been twice married. He belonged to the conservative party in matters of religion, and doubtless on that account became a benefactor to Brasenose College, Oxford, founded in that interest. He left one son, afterwards Sir John Port, also a benefactor to the college ('Dict. Nat. Biog.').

<sup>1</sup> Patent Roll, 8 Hen. 8, part 1, membranes 15, 16.

<sup>2</sup> An Exemplification, 'an attested copy of a record' (Murray, 'Eng. Dict.' s.v.); especially of Letters Patent. Such exemplification was sealed with the Great Seal and was 'as effectual to be shewed or pleaded as the originals themselves' (Cowel, 'Interp.' s.v.).

<sup>3</sup> 'Por Richard Eden, clerk. To be clerk of the king's council, with forty marks a year, vice John Meautys, the king's secretary for the French tongue, appointed during pleasure by patent October 19, 1 Hen. 8 (1509); to enjoy the office in the same manner as Meautys or Robert Rydon. Greenwich, 14 June 4 Hen. 8 (1512). Privy Seal, Westminster, October 21 (1512) (L. and P. Hen. 8, i. 3478). Rydon and Eden, or as he is sometimes spelt Edon (ib. ii. 1857) were apparently the two clerks until 1516, when Eden succeeded to Rydon's place as senior clerk for life with a salary of 26*l.* 13*s.* 4*d.*, or forty marks (ib. 2736), his previous salary

having been 20*l.* per annum (ib. ii. p. 1464), but in 1520 it seems to have been temporarily reduced to its former figure (ib. iii. 1114 and p. 1535; iv. p. 869). He was appointed on July 8, 1519, to search London and the suburbs for suspected persons, the district assigned to him being Hackney, Newington and Kingsland, probably one with which he was acquainted (ib. iii. p. 365). He was returned in 1522 as a creditor of the Monastery of St. Alban's to the amount of 98*l.* 7*s.* 6*d.* (ib. 2583). A letter of Nicholas West, bishop of Ely, to Wolsey, dated October 28, 1523, styles him Dr. Eden (ib. 3476), and the style Richard Eden, clerk, shows him to have been in orders (ib. iv. 6490 (1)). As early as 1527 he was archdeacon of Middlesex (ib. 2991), and about April 1528 made a conditional surrender of his patent of 1512 (ib. 4231, undated) in favour of Thomas Elyott (ib. 4231). Apparently the condition was the retention of the reversion, for on the retirement of Elyott in June 1530 he obtained a grant of the place 'in survivorship' with Thomas Eden, presumably a relation (ib. 6490, 1). He was appointed chaplain to the king and presented to the benefice of Dikleborough in the diocese of Norwich (ib. v. 559, 27). He probably died about the end of 1532, for on January 24, 1533, Thomas Derbye, clerk of the Signet, was made clerk of the Council 'with the fee of 20*l.* a year as Richard Eden held the same' (ib. vi. 105, 24), 'Mr. Eden'—that is, presumably Thomas Eden—being now styled 'clerk of the Star Chamber' (ib. vii. 47, 4 Jan. 1534).

<sup>4</sup> Richard Lee, mentioned as one of the clerks of the Council in May 1516 (L. and P. Hen. 8, ii. 1857), although the patent to Eden in October, 4 Hen. 8 (1512) is recited as granting the office to the said Richard alone (L. and P. Hen. 8, IV. iii. 6490, 1). The explanation is that the reciting grant is to Eden and another, though the circumstances of that grant suggest that there was a differentiation of function and sometimes of name, one clerk acting as clerk of the Council and another as clerk of the Council in the Star Chamber. See last note and 'Select Cases in the Star Chamber' (Selden Society, 1902), Intro.

Rex Anglie et Francie et Dominus Hibernie Dilectis sibi Ricardo Eden et Ricardo Lee clericis consilii nostri salutem. Volentes certis de causis cerciorari<sup>5</sup> super tenore cuiusdam iudicii siue decreti coram nobis et consilio nostro apud Westmonasterium in Camera Stellata diuersas libertates Burgensium et Communitatis ville Noui Castri super Tynam concernentis signo nostro manuali consignati nuper redditi Vobis mandamus quod tenorem iudicii siue decreti predicti nobis in Cancellariam nostram sub sigillis vestris distincte et aperte sine dilatione mittatis et hoc breue. Teste me ipso apud Westmonasterium Secundo die Maii anno regni nostri octauo.<sup>6</sup> Porter.<sup>7</sup> Inspeximus<sup>8</sup> eciam indorsamentum siue retorum dicti breuis nostri in hec verba. Responsio Ricardi Eden et Ricardi Lee clericorum consilii infranominatorum. Nos Ricardus Eden et Ricardus Lee clerici consilii domini Regis tenorem iudicii siue decreti de quo in presenti breui fit mencio iuxta mandatum nobis in hoc breui directum in scedula huic breui annexa summo domino nostro Regi in Cancellariam suam mittimus. Inspeximus insuper tenorem iudicii siue decreti predicti apud Westmonasterium in camera stellata predicta nuper redditi et in filaciis dicte Cancellarie nostre similiter residentis facti in hec verba. Where as grete variaunces strives debates discordes and discension haue lately ben had fallen moued and stirred betwene the Mercers Drapers Bothemen and Spicers<sup>9</sup> Burgesses and Marchauntes of the Towne of Newcastell vpon Tyne on the oon partie and the Craftesmen Artificers and Burgesses of the seid Towne on the other partie aswell for and concernyng certeyn liberties to the Burgesses and Comynalte of the same Towne for the tyme beyng graunted by the kynges moost noble progenitours by their letters patentes and the vsages of the same and the liberties by theym and their predecessours vsed the tyme wherof mannys mynde is not to the contrarie as for and concernyng certayn actes of Comen Counsell in their comen guylde by theym and their predecessours made ordeyned and prouyded concernyng the same that is to saye First

p. lvi. As 'clerk of the Star Chamber' in 1527, he received a fee of 40s. from the Earl of Northumberland (L. and P. iv. p. 1533). He was perhaps one of the six clerks of Chancery, and was on Wolsey's disgrace in 1529 appointed one of a commission to hear cases in Chancery (ib. 5666), after which his name disappears from the State Papers.

<sup>5</sup> "Certiorari" is a writ out of the Chancery to an inferior Court to call up the Records of a cause therein depending, that conscionable Justice may be therein ad-

ministered, upon complaint made by bill that the Party which seeketh the Writ hath received hard dealing in the said Court' (Cowel, 'Interp.' s.v.).

<sup>6</sup> 1516.

<sup>7</sup> See C, p. 83, note 9, supra.

<sup>8</sup> An "Inspeximus" or "letters-patent" so called . . . is the same with Exemplification which begins thus: "Rex omnibus, etc., Inspeximus, etc." (Cowel, 'Interp.' s.v.).

<sup>9</sup> No mention of them occurs in the bill of complaint nor in the defence. See A and B, pp. 75-81 supra.

wheder that any Burgesse of the seid Towne shuld occupie the feate of byeng and selleng but oonly for their familie and household and not to be sold agayne other then the seid Marchauntes without the agrement of such of the felawship of theseid Marchauntes that any such Burgesse wold occupie with or wheder any Burgesse of the same Towne shuld occupie the crafte mystery or occupacion of any other crafte mystery or occupacion in theseid Towne then he is of without agrement be made with the Wardeyns or Stewardes of that other crafte mysterie or occupacion that such Burgesses wold so occupie with, which Craftymen and Artificers haue holden and kepte opinion that every Burgesse of theseid Towne myght laufully vse and occupie euery others crafte mysterie or occupacion and frely bye and selle as Marchauntes without any such agrement the reuerse and contrarie wherof theseid Marchauntes haue holden and kept and where also there hath ben greate variaunces and contrarie opinions betwene theseid parties for and concernyng the maner of the eleccion of the Maire Aldermen Shirif Chamberlaynes and other Officers of theseid Towne<sup>10</sup> and also contrarie opinyons haue ben had and holden betwene theseid parties wheder eny personne shuld be made free of the same Towne before that he had dwelled there by the space of a yere<sup>11</sup> and on this theseid parties haue varied also in the namyng of Auditours for heryng and takyng of accomptes of the Officers accomptable within theseid Towne<sup>12</sup> which theseid Craftesmen Artificers wold haue xxiiij<sup>13</sup> and euery oon of theym takyng for their laboures and costes at the charges of theseid Towne. And theseid Merchauntes wold haue lesse and fewer in noumbre to be Auditours for the profet of the same Towne to thentent to eschewe the charges that the Towne shuld bere for the hauyng of so many vpon which variaunces and contrarie opynyons grete commocions vnlauffull assembles confederacies embraceries<sup>14</sup> conuenticles<sup>15</sup> vnlauffull promyses and diuisions in the same Towne haue ben made and had

<sup>10</sup> This was a common subject of dispute at this time; but no mention of it occurs in the bill of complaint.

<sup>11</sup> Not mentioned in this case.

<sup>12</sup> It is evident from this recital of points at issue foreign to this case that the bills and pleadings of some disputes have been lost.

<sup>13</sup> Perhaps on the analogy of the provision of Henry 4's charter. See A, p. 76, n. d, supra.

<sup>14</sup> 'Embraceor or Embraseur is he that, when a matter is in trial between party and party, comes to the bar with one of the parties (having received some reward so to

do) and speaks in the case, or privily labours the jury, or stands there to survey or overlook them, thereby to put them in fear and doubt of the matter.' "Embraceery" is the act or offence of Embraceours' (Cowel, 'Interp,' s.vv.). See further the Statute 'Agenst maintenaunce and embraceery, byeng of titles, etc.,' 32 Hen. 8, c. 9 (1540).

<sup>15</sup> A term of art, signifying an illegal meeting. Cf. 2 Hen. 4, c. 15, directed against the Lollards: 'conventiulus et confederaciones illieitas faciunt,' and 1 Hen. 6, c. 3, against Irishmen in England, 'felonies, riotes, conventieles et malefaitz.'



to the grete trouble inquietnes and empouereishment of the same Towne and like to be the vtter destruccion and desolacion of the same Towne if good remedie and redresse in brief tyme shuld not be prouyded and purueied in that behalf. Of which variaunces strives and debates in and concernyng the premisses greuous compleyntes haue been by billes put and exhibited to the kinges highnes and to the lordes of his moost honorable counsaill by either partie agenst other which billes of compleynt were receyued in the Sterre chambre by the moost Reuerend fader in god William Archibussshop of Caunterbury and then Chaunceller of England<sup>16</sup> and after redde and hard and declared before the moost Reuerend fader in god Thomas Cardynall and Archibussshop of Yorke and then and nowe Chaunceller of England<sup>17</sup> and theseid moost Reuerend fader in god William Archibussshop of Caunterbury the Reuerend faders in god Richard Bisshop of Wynchestr'<sup>18</sup> Thomas Bisshop of Duresme<sup>19</sup> and the noble lordes Thomas Duke of Norff<sup>20</sup> Charles Duke of Suff<sup>21</sup> Thomas Erle of Surrey<sup>22</sup> George Erle of Salop<sup>23</sup> Charles Erle of Worcestre<sup>24</sup> George lord Burgevenny<sup>25</sup> Thomas lord Darcy<sup>26</sup> Thomas Priour of Seynt John Jerusalem in England<sup>27</sup> sir Thomas Lovell<sup>28</sup> sir Henry

<sup>16</sup> William Warham, or Wareham, archbishop of Canterbury, 1504-32; Lord Chancellor, 1504-15 ('Dict. Nat. Biog.').

<sup>17</sup> Thomas Wolsey, Lord Chancellor, 1515-29; Archbishop of York, 1514-30 (ib.).

<sup>18</sup> Richard Foxe, bishop of Winchester, 1501-28, ib.: presumably given precedence here as Lord Privy Seal, for, though the order of precedence was not definitely settled till 1539 (31 Hen. 8, c. 10), it probably then followed traditional usage.

<sup>19</sup> Thomas Ruthall, bishop of Durham, 1509-23, ib. The precedence over dukes here assigned to him is perhaps as palatine of Durham. 'The chief governors of these Counties Palatine (Lancaster, Chester, Durham, Ely, Pembroke, and Hexham), by special charter from the king, did heretofore send out all writs in their own names, and did all things touching Justice as absolutely as did the Prince himself in other Counties, only acknowledging him their superior and sovereign (Cowel, 'Interp.' s.v. County). In Parliament, however, the bishop of London, perhaps as diocesan, took precedence of the bishop of Durham. 31 Hen. 8, c. 10: this Act extended to the Star Chamber (§ 10).

<sup>20</sup> Thomas Howard, second duke of Norfolk of the house of Howard; after his father's attainder created duke of Norfolk, 1514; Lord Treasurer, 1501-22; died, 1524. The victor of Flodden ('Dict. Nat. Biog.').

<sup>21</sup> Charles Brandon, created duke of Suffolk, 1514; died 1545 (ib.).

<sup>22</sup> Thomas Howard, created earl of Surrey, 1514; afterwards (1524) third duke of Norfolk; died 1554. Assigned precedence of earls here, as being eldest son of a duke (ib.).

<sup>23</sup> George Talbot, fourth earl; born 1468; Lord Steward, 1509; died 1538 (ib.).

<sup>24</sup> Charles Somerset, first earl, an illegitimate son of Henry Beaufort, third duke of Somerset; born about 1460; made a Privy Councillor, 1505; created earl of Worcester, 1514; Lord Chamberlain, 1508; died 1526 (ib.).

<sup>25</sup> George Nevill, or Neville, third baron of Bergavenny of this family; born about 1471; succeeded to the peerage, 1492; made a Privy Councillor, 1515; died 1535 (ib.).

<sup>26</sup> Thomas Darcy, created lord Darcy, 1505; beheaded, 1537 (ib.).

<sup>27</sup> Sir Thomas Docwra, became prior of the Knights of St. John of Jerusalem in 1502. 'Docwra's name occurs about this time (1519) in a list of councillors appointed by Wolsey to sit at Whitehall and hear causes of poor men who had suits in the Star Chamber,' ib. But he was sitting in the Star Chamber in July 1508. (See 'Select Cases in the Star Chamber' [Selden Society, 1902]). He died in 1527. See further 'Dict. Nat. Biog.'

<sup>28</sup> Sir Thomas Lovell, a student of law at Lincoln's Inn, fought on the side of

Marney<sup>29</sup> and sir Thomas Neuell<sup>30</sup> knyghtes and other of the kynges moost honorable counsell<sup>31</sup> and vpon the aunsweres replicacions and

Henry 7 at Bosworth; Chancellor of the Exchequer for life in 1485, and Speaker of the House of Commons in Henry 7's first Parliament; President of the Council, 1502; Steward of the Household, 1509; died 1524 ('Dict. Nat. Biog.'). He takes precedence of the commoners, the prior of St. John's ranking as a temporal peer. ('Select Cases in the Star Chamber' [1902], p. xxxvii).

<sup>29</sup> Sir Henry Marney, or Marny, first comes into notice with the accession of Henry 7. The name was originally de Marini, or de Marinis, and from the time of Henry 2 the home of the family was Layer-Marney, Essex (P. Morant, 'Hist. of Essex,' 1768, i. 406). He was son and heir of Sir John Marney. It may be taken that he was a Lancastrian and had probably assisted Henry 7 in his invasion, for in 1486, being then sheriff of Essex and Hertford, he received from the king 'by way of reward' 188*l.*, and a further sum of 198*l.* 'by way of reward' two years later (W. Campbell, 'Materials for a History of Henry 7, ii. 83, 391). He is mentioned by Polydore Vergil (ed. Gandavi, 1557, lib. xxvi. p. 1437) as having been made a Privy Councillor soon after Henry's accession, and as having fought for the royal cause against Lambert Simnel and the Earl of Lincoln at the battle of Stoke on June 9, 1487. On October 31, 1494, at the creation of Prince Henry, afterwards Henry 8, as duke of York, he was dubbed a Knight of the Bath. He was an executor and also a legatee of Margaret Countess of Richmond, grandmother of Henry 8 (L. and P. i. 236, 406, ii. 688, 689), who died in 1509. He was a Knight of the Body and an active member of the Privy Council, as may be seen from the Selden Society's volume cited above, or from the Letters and Papers of Henry 8, his signature being 'Harry Marny.' Within three weeks of the accession of Henry 8 (May 12, 1509) he was appointed Captain of the Guard and Vice-chamberlain (L. and P. i. 30), and in the same month steward of the duchy of Cornwall, warden of the Stannaries, riding or master forester of Dartmoor forest and keeper of Mire Park, Wilts (May 18, ib. 48). On August 17, he was commissioned to take possession, on behalf of the king, of the goods of Edmund Dudley (ib. 425), who had been attainted of high treason. About the same time he was made chancellor of the duchy of Lancaster (ib. 944). He was elected a Knight of the Garter on April 27, 1510. He was a commissioner of jail delivery for Newgate and for the

county of Surrey March 21, 1511 (ib. 1547, 1548). From July 1509 (ib. 310) and February 1510 (ib. 891) he was in the commission of the peace for Essex and Cornwall respectively. In 1513 he was nominated one of the commanders in the king's invasion of France, being at the head of the rear-guard of the invading army (ib. 3885, 4237). He marched out of Calais in command of the right wing, but was unable to follow the campaign, his leg having been broken by a kick from his horse (July 21, ib. 4284). His son John, however, marched with the king at the head of a retinue of 800 men (ib. 4307), and on September 25, the day after the capture of Tournay, was knighted (ib. 4468). Sir Henry is mentioned among the knights and noblemen present at Westminster Abbey upon the occasion of the reception of the Cardinal's hat by Wolsey on Nov. 18, 1515 (ib. ii. 1153). He was a controller of the household in 1517 (ib. 3471, 4057, 4124), the office being, it would seem, entrusted to a committee (ib. iii. 576) and was apparently hostile to the conservative party at court (ib. ii. 1959), though at variance with Wolsey (ib. 2018). He was one of the signatories to the Treaty with France on October 2, 1518 (ib. 4469), and to the Treaty of Marriage between the Dauphin and the Princess Mary on October 4 following (ib. 4475). He was at the Field of the Cloth of Gold in March 1520 (ib. iii. pp. 236, 243), a signatory of the Treaty of Commerce, between Henry 8 and the Emperor Charles 5, signed at London on April 11 following (ib. 739), and was present at the meeting of the king and the emperor at Gravelines on July 10 of the same year (ib. 906). In the same year he was on a commission to decide a dispute between the Corporation of Norwich and the Convent of Christchurch (ib. Append. 12). He was on the Grand Jury that found bills of indictment for high treason against Edward Stafford, duke of Buckingham (May 13, 1521), both in London (ib. 1284, i.) and in Southwark, on which last jury he was associated with his son, Sir John Marny (ib. iv. p. 493). After the duke's execution he received a grant of some of his lands in Bucks (ib. p. 916). He appears to have been reconciled to Wolsey in 1521, and was employed by him when the king was out of London to convey the Cardinal's views upon pending diplomatic negotiations (ib. 1424). He was appointed Lord Privy Seal on February 14, 1523, with a salary of 20*s.* a day (ib. 2830), and was created a baron on April 9 following



reioynders of theseid parties theruppon made witnesses by theseid parties theruppon brought forth and theseid letters patentes actes vsagies and writings by theseid parties shewed to theseid moost honorable counsaill in theseid Sterre Chambre and by theym herd and examyned and the counsellors lerned of both theseid parties before the seid kynges moost honorable counsell therin herd in the premisses at large. Wheruppon theseid moost Reuerend fader in god Thomas Cardynall Archibussshop of Yorke and nowe Chaunceller of Englund and theseid lordes and the other abouenamed of the kinges moost honorable counsaill to the lawde and prayse of almyghty god consideryng not oonly the premisses but also where good ordre lacketh and diuision be amongst any Comynaltie there shall ensue desolacion and destruccion of thesame Cominaltie and to thintent to haue vnyte concord and peace within thesame Towne inuolably foreuer to be obserued and kept theseid moost honorable counsaill in theseid Sterre Chambre callyng to theym the kynges Iustices of either Benche<sup>32</sup> by the kynges moost dredde commaundement to theym given in thaduoydyng of all maner of doubtes questiones and ambyguytees that myght ryse or growe vpon or by reason of thesame letters patentes vsages or actes of commen guyldes the xvij<sup>th</sup> daye of Aprill in the vij<sup>th</sup> yere of the reigne of oure seid soueraigne lord the kyng<sup>33</sup> haue ordeyned declared and adiugged in the premisses by the expresse consent and assent aswell of thoos persones that were auctorised and had auctoritie to pursue for the Craftysmen Artificers and Comens of thesame Towne and by thagrement of the Counsaill lerned for the same Comynaltie as by the expresse consent and assent of theseid Merchauntes Bothemen Mercers Drapers and Spicers and by the agrement of their counsell lerned in maner and forme folowyng that is to seye First it is ordeigned decreed and adiugged by theseid moost honorable counsell that noon of thies felawshipes or craftes

(ib. 2936). He died on April 23, 1523, and was buried in the chancel of the church of Layer-Marney, where his effigy, in the robes of the Garter, may yet be seen. Between 1520-23 he built Layer-Marney Hall, 'probably the earliest building in England exhibiting Italian influence in architecture' (Murray's 'Guide to Essex,' 1892, p. 31). He was twice married, first, to Thomasine, daughter of Sir John Arundel, of Lanhearne, co. Cornwall, and secondly, to Elizabeth, daughter of Nicholas Wifield. The second Lord Marney was by the first marriage. His will, proved December 22, 15 Hen. 8 (1523), is printed in N. H. Nicolas, 'Testamenta Vetusta' (1826), p. 609. By it he founded an almshouse

for five poor men, and left a number of bequests for religious purposes.

<sup>30</sup> Sir Thomas Neuell, or Nevill, fifth son of George, second baron Bergavenny and brother of George, lord Bergavenny, his colleague on the Council. Speaker of the House of Commons, 1514; died, 1542. This document antedates his membership of the Star Chamber three years before 1519, the date assigned in the 'Dict. Nat. Biog.,' qu. vid.

<sup>31</sup> As to the 'ceteri consilarii,' see 'Select Cases in the Star Chamber' (Selden Society, 1902), Introduction, pp. xxxvii-  
xlvi.

<sup>32</sup> See ib. xxxv-xxxviii.

<sup>33</sup> 1516.



here vnder written named and specified shall occupie or vse the craft mysterie or occupacion of Mercers Bothemen Drapers or Spicers or of any of theym or of any other crafte mysterie or occupacion in theseid Towne but oonly theire owne propre craftes mysteries or occupacions that they be of though he or they wold agree and make and paye fynes therfor so to doo except and oonles they will chaunge and renounce his or their copies<sup>34</sup> craftes or mysteries that they be of and to be of the same crafte mysterie or occupacion that they will desire to occupie within which case they that so will doo shalbee admitted to thesame payeng such fynes after the rate of their goodes as hereafter shalbe declared that is to sey the craftes of Colyers Shomakers Bouchers Weuers Smythes Dawbers<sup>35</sup> Porters Kelemen<sup>36</sup> Schlatters<sup>37</sup> Tylers Millers Cokes Spurriers Barbours Wrightys Furbyssshours<sup>38</sup> Bowyers Fletchers<sup>39</sup> Glovers Cowpers Girdelers Chalonweuers<sup>40</sup> Masons Sadelers Shipwrightes and Wallers.<sup>41</sup> And furthermore it is decreed ordeyned and adiuged by theseid moost honorable counsaill that no Burgesse of thesame Towne of any craft mysterie or occupacion whatsoever he be that is not of substaunce in goodes and catalles to the value of xli. or aboue shall fromhensforth be admitted by any Wardeyns or Stewardes of any felawship misterie or occupacion of Mercers Bothemen Drapers or Spicers or of any other felawship mysterie or occupacion nor occupie nor vse any other crafte mysterie or occupacion then theire owne propre crafte mysterie or occupation that they be of though he or they wold agree make and paye fynes therfor. And ouer this it is ordeigned decreed and adiuged by theseid moost honorable Counsaill that no Burgesse of any crafte mysterie or occupacion within theseid Towne being of substaunce in goodes and catalles of the value of xli. or aboue in any wise fromhensforth vse or occupie the crafte mysterie or occupacion of any other crafte mysterie or occupacion within thesame Towne other then the crafte mysterie or occupacion that he is of without a speciall agrement to be made and to paye suche fyne at his incomme or entre as hereafter shalbe expressed and declared the which desire of any suche persone or personnes being of good conuersacion to occupie with an other mysterie crafte or occupacion shall not be refused but by the

<sup>34</sup> Sic ; but qu. for companies, the mark of abbreviation being omitted.

<sup>35</sup> 'Dauber ; a plasterer ; one who builds with daub' (Murray, 'Engl. Dict.' s.v.).

<sup>36</sup> 'Keelman ; one who works on a keel or barge,' ib.

<sup>37</sup> 'Furbisher ; one who furbishes,' especially armour (ib.).

<sup>38</sup> 'Fletcher ; one who makes or deals in arrows' (ib.).

<sup>40</sup> 'Chalon ; a blanket or coverlet for a bed ; apparently, as stated by Du Cange, from its place of manufacture, Chalons-sur-Marne, in France' (ib.).

<sup>41</sup> Wallers ; labourers who build walls.

Wardeyns or Stewardes therof be accepted and taken payeng his fyne therfor as herafter shalbe declared. And theseid Counsaill hath further ordeyned declared and adiuged for the orderyng of theseid fyne and what personnes shall paye the same fyne and the maner of the same as herafter foloweth. First that euery personne being of good conuersacion of any crafte mysterie or occupacion except the craftes mysteries or occupacions before excepted beyng of substaunce in goodes and catalles to the value of *xli.* or aboue and vnder the value of *xlii.* willyng and desiryng to occupie and vse an other crafte mysterie or occupacion than he is of shall content and paye for his fyne *xs.* to the Chamberlaynes<sup>42</sup> of theseid Towne for the tyme being to the vse of all the Cominaltie of theseid Towne. And that euery personne of any crafte mysterie or occupacion within theseid Towne except the craftes before excepted being of good conuersacion and in substaunce in goodes and catalles to the value of *xlii.* or aboue and vnder the value of *c.* markes willing and desiryng to occupie and vse an other crafte mysterie or occupacion then he is of shall content and paye for his fyne *xxs.* to theseid Chambrelaynes for the tyme being to thuse of the Cominaltie of theseid Towne. And that euery personne of any crafte mysterie or occupacion within thesame Towne except the craftes afore excepted being of good conuersacion and in substaunce in goodes and catalles to the value of *c.* markes<sup>43</sup> or aboue willing and desiryng to occupie and vse an other crafte mysterie or occupacion then he is of shall content and paye for his fyne *xxvjs. viijd.*<sup>44</sup> and no more to theseid Chambrelaynes for the tyme being to thuse of theseid Cominaltie of theseid Towne. And it is decreed ordeyned and adiuged that after such fyne or fynes paied by any suche personne that will soo desire to vse and occupie an other crafte mysterie or occupacion to theseid Chamberlaynes to thuse of theseid Cominaltie as beforesaid and that he shall aswell occupie and vse theseid Crafte mysterie or occupacion that he hath so desired and willed to occupie with and hath payed fyne therfor as his owne crafte mysterie or occupacion. Prouyded alwey that all such Burgesses that before the making of this decree ordre and iuggement haue agreed with any other crafte mysterie or occupacion for any maner of money haue enioye and occupie aswell his owne occupacion or mysterie that he is of as thother that he soo made agrement with. And ouer this it is decreed ordered and adiuged by theseid moost honorable Counsaill, that theseid valuacion of theseid goodes and catelles of euery

<sup>42</sup> Chamberlain; an officer who receives the rents and revenues of a Corporation.

<sup>43</sup> 66*l.* 13*s.* 4*d.*

<sup>44</sup> Two marks.

persone that shall soo desire to occupie with an other crafte myserie  
 or occupacion then he is of shalbe valued in maner and forme  
 folowyng that is to say iiij honest personnes of the crafte myserie or  
 occupacion of hym that soo shall desire to occupie with an other crafte  
 myserie or occupacion shalbe sworne vpon a boke before the Maire  
 Aldermen and Recorder of the same Towne for the tyme beyng  
 wheder he be of the value in goodes and catalles of xli. or aboue and  
 vnder the value of xli. or of the value of xli. or aboue and vnder the  
 value of a c. markes or of the value of a c. markes or aboue after the  
 maner and fourme before declared and after his fyne paied after the  
 rate as it is aforeseid he shalbe receyued accepted and taken in to  
 theseid felawship with whome he desireth to occupie with and shall  
 aswell vse and occupie the same crafte myserie or occupacion as his  
 owne crafte myserie or occupacion without any contradiction. And  
 furthermore it is decreed ordeyned and adiuged by theseid moost  
 honorable Counsaill for and concernyng the ordre of the eleccion of  
 the Maire Aldermen Shirief Chamberlaynes and other Officers of the  
 same Towne in maner and forme folowyng First at their auncient  
 eleccion day after the assemble of the xij felawshippes or craftes  
 folowyng that is to saye Drapers Mercers Skynners Tailours Sadelers  
 Merchauntes of corne called Bothemen Bakers Tanners Cordwaners  
 Bouchers Smythes and Fullers that euery of the same craftes and  
 felawshippes name and present two moost proued men and moost  
 discrete of theym self to the Maire and his brethern which shalbe  
 xxiiij in nombre which xxiiij so named and presented as beforeseid  
 then shalbe sworne vpon a boke before theseid Maire and his bredern  
 and theseid craftes and felawshippes that they shall electe chose and  
 name iiij Burgesses to their knowlege moost best most feithfull and  
 proued men of such Burgesses as hath been both Maires and Alder-  
 men of theseid Towne which foure so elected chosen and named  
 shalbe in like wise sworne to electe name and chose to be conioyned  
 with theym viij Burgesses of the same Towne to their knowlege moost  
 honest most faithfull and moost proued men Burgesses of such as  
 haue ben Maires Aldermen or Shiriefis Burgesses of thesame Towne  
 to electe chose and name other xij Burgesses of thesame Towne moost  
 feithfull and proued men of all the residue of theseid Burgesses of  
 theseid Towne to be conioyned with theseid iiij and viij for the  
 eleccion of theseid Officers which viij so electe chosen and named by  
 theseid iiij sworne shalbe also sworne vpon a boke in like wise that  
 they with the other iiij with whome they shalbe conioyned shall electe  
 chose and name other xij Burgesses of the same Towne to their



knowlege moost faithfull and proued men of all the residue and of all theseid Burgesses of theseid Towne to be conioyned with theseid xij which then shall be xxiiij in nombre which xxiiij<sup>ti</sup> shalbe sworne to guyder vpon a boke that they without any parcialite shall electe and chose able and sufficient personnes Burgesses of thesame Towne oon for to be Maire of theseid Towne for the yere folowyng and vj for Aldremen oon for Recorder oon for Shirief viij for Chamberlaynes and two for Coroners and oon for Swerdberer oon for the Comen Clerke of the Towne Chambre and other viij for Sergeauntes at mace.<sup>45</sup> Any opinions letters patentes writings vsages or other thinges hertofore had or made or vsed to the contrarie not withstondyng. Also it is further decreed ordeyned and adiuged by theseid Counseill that no personne of what condicion astate or degree he be of shalbe made free Burgesse of theseid Towne before that he haue inhabited or dwelled by the space of a yere in thesame Towne to thentent and purpose that his conuersacion and behauyur may be the better knownen nor that any Gentilman or lordes seruauant be made Burgesse of thesame though he haue dwelled by the space of a yere in thesame Towne oonles that he haue serued as a Prentice by the space of vij yeres in any crafte mysterie or occupacion of the same Towne. And that euery man that shalbe made free Burgesse of the same Towne at the tyme when he shalbe admitted to his fredome shalbe sworne vpon a boke that he shall not be receyued ne were any lyuerey or token of or with any lord Gentilman or any other personne foreyn<sup>46</sup> not being Burgesse of thesame Towne. And furthermore it is ordeyned declared and adiuged by theseid moost honorable Counsell that xxiiij Auditours shalbe appoynted yerely and chosen by theseid xij craftes before named for to take and here the accomptes of all Officers of theseid Towne accomptable and that they shall haue no money nor rewarde of the Towne for their labours in that behalf susteyned. And furdere more it is ordeyned decreed and adiuged by theseid moost honorable Counsell that all theseid decrees ordenaunces and iuggementes before remembred by theseid moost honorable Counsell decreed ordeyned and prouyded shalbe fermely assuredly and inviolably obserued and kepte by the hole Burgesses and inhabitauntes of thesame Towne and euery of theym foreuer vpon payne of euery personne making defaute or offendyng therin to be oute of the kynges fauour and in the kynges high displeasure and his body to prisonne and there to remayne

<sup>45</sup> 'There is also a more inferior kind of Sergeants of the Mace, whereof there is a troop in the city of London and other corporate towns, that attend the mayor or

other chief officer, both for menial attendance and chiefly for matters of justice' (J. Cowel, 'Interp.' s.v. Sergeant).

<sup>46</sup> Explained by the next three words.

without bayle or maynprise<sup>47</sup> at the kynges pleasure and to forfaite to the kyng and his heires for euery tyme that he shall soo offende xlii. And also it is ordered and decreed by theseid moost honorable counsell and also the kinges high pleasure is that theseid decrees ordynaunces and iuggementis be exemplified vnder his greate Seale and openly proclaymed in the same Towne to thentent that euery personne may haue knowlege therof So that noon shall excuse hym by ignoraunce and the same exemplificacion to remayne in theseid Towne for a perpetuall memory. And where as theseid Burgesses and inhabitauntes of theseid Towne haue greuously and contemptuously offended the kynges grace contrarie and ayenst his peax lawes and statutes wherby they at the kinges pleasure ought and haue deserued to be emprisoned and greate fynes to be cessed<sup>48</sup> vpon theym for their offenses as apperteyneth in that behalf yet neuertheles the kynges grace for the speciall fauour and love that he bereth to thesame Towne and the inhabitauntes of thesame trustyng that they will obediently and inuolably obserue and kepe this present decree ordre and iugement of his seid moost honorable Counsaill of his habundaunt grace pardoneth foryeueth and remitteth to theseid inhabitauntes and euery of theym all theseid offenses and trespasses concernyng the premisses or any of theym. Neuertheles his highnes protesteth and declareth that in case any of theseid Inhabitauntes doo not obserue and perfourme theseid decrees that this his present pardon and remission shall not extende nor be auaylable to any persone or personnes breking or disobeyng theseid decrees or any of theym. Actum et decretum in Camera stellata apud Westmonasterium secundo die Maii anno regni illustrissimi Regis Henrici octaui octauo<sup>49</sup> presentibus tunc in eadem Camera sua regia celsitudine<sup>50</sup> ac reliquis dominis Consiliariis eiusdem serenissimi Regis

<sup>47</sup> 'Every bail is a mainprise (for those that are bail take the person bailed into their hands and custody), but every mainprise is not a bail, because no man is bailed but he that is arrested or in prison; for he that is not in custody or in prison cannot be delivered out. . . . But a man may be mainperned which never was in prison, and therefore mainprise is more large than bail. As in an appeal of felony, the defendant wage battell, etc., and a day appointed, etc., the plaintiff shall find mainprise, etc., to appear, etc. And yet he never was in prison or under custody. And sometimes these mainprises are called pledges. . . . And for as much as every bail is a mainprise (as hath been said) bail is sometimes termed in our books by the

name of mainprise.' E. Coke, 4 Inst. f. 180.

<sup>48</sup> 'Cess, aphetic for assess' (Murray, s.v.).

<sup>49</sup> May 2, 1516.

<sup>50</sup> This is a rare example of the presence of the king in person in the Star Chamber. That it was a fact and not a paraphrase of the common form 'Coram Domino Rege' &c. is proved by a letter from Thomas Alen to the earl of Shrewsbury, dated May 6, 1516, which mentions that the king was sitting in the Star Chamber 'the morrow after the Ascension Day,' i.e. May 2. Henry was at this time in London expecting a visit from his sister, Queen Margaret of Scotland, L. and P. ii. 1861. As to the presence of the king in

inferius nominatis Cui presenti decreto siue iudicio non solum regia maiestas verum eciam domini subscripti ac alii Consiliarii domini Regis<sup>51</sup>. necnon Consiliarii vtriusque partis affixerunt nomina sua in forma sequenti. T. Cardinalis Ebor'<sup>52</sup> T. Norffolk<sup>53</sup> E. Bukyngham<sup>54</sup> Charlis Suffolk<sup>55</sup> W. Lincoln',<sup>56</sup> N. Elien'.<sup>57</sup> C. Worcestre'<sup>58</sup> Docwra<sup>59</sup> G. Bergevenny<sup>60</sup> T. Darcy,<sup>61</sup> Johannes Ernele,<sup>62</sup> Johannes Rowe seruiens ad legem<sup>63</sup> per me Ricardum Broke<sup>64</sup> per me Johannem Newdegate<sup>65</sup> John Rooper,<sup>66</sup> Cristofer Brigham,<sup>67</sup> Thomas

the Star Chamber, see 'Select Cases in the Star Chamber' (Selden Society, 1902), p. lvii.

<sup>51</sup> Upon the composition of the court see 'Select Cases in the Star Chamber' (Selden Soc. 1902), pp. xxxv–lix.

<sup>52</sup> Thomas Wolsey, Cardinal Archbishop of York, Lord Chancellor, 1515–29 ('Dict. Nat. Biog.').

<sup>53</sup> Thomas Howard, duke of Norfolk, K.G., Lord Treasurer (ib.).

<sup>54</sup> Edward Stafford, duke of Buckingham, K.G., Lord High Constable (ib.).

<sup>55</sup> Charles Brandon, duke of Suffolk, K.G. (ib.).

<sup>56</sup> William Atwater, bishop of Lincoln (ib.).

<sup>57</sup> Nicolas West, bishop of Ely (ib.).

<sup>58</sup> Charles Somerset, earl of Worcester, Lord Chamberlain of the Household (ib.). It does not appear why precedence should have been accorded by him to the two bishops. West, it is true, had represented the king on embassies abroad; but not so the bishop of Lincoln.

<sup>59</sup> Sir Thomas Docwra, prior of the Order of St. John of Jerusalem, a temporal Peer (*virtute officii*) (ib. and see 'Select Cases in the Star Chamber' [1902], xxxvi, xxxvii, 187, n. 11).

<sup>60</sup> George Nevill, third baron Bergavenny, Warden of the Cinque Ports ('D.N.B.').

<sup>61</sup> Thomas Darcy, lord Darcy, K.G., ('D.N.B.').

<sup>62</sup> John Ernele, Ernle, or Ernley, second son of John Ernle of Ernle, Sussex: Solicitor-General, 1507; Attorney-General, 1509–1518; Chief Justice of the Common Pleas, 1519; died 1521 (E. Foss, 'Lives of the Judges' [1852], v. 161).

<sup>63</sup> John Rowe or Roe, called serjeant-at-law, 1510 (Foss, v. 102, see further 'Select Cases in the Court of Requests' [Selden Soc. 1898], p. 202, 2).

<sup>64</sup> Richard Broke, admitted student of Lincoln's Inn, 1483; governor of the Inn in 1499; Treasurer, 1500; called serjeant-at-law 1510. See 'Dict. Nat. Biog.'

<sup>65</sup> John Newdegate, Newdigate or Neudegate, of Harefield, Middlesex, son of

John Newdegate of Harefield by Elizabeth, daughter of Thomas Yong, a Justice of the Common Pleas (J. Burke, 'Commoners,' 1835, ii. 698); admitted a student of Lincoln's Inn on Palm Sunday, 1483. His record in the 'Black Books' of the Inn betokens a vivacious disposition. In Michaelmas Term 1484 he was 'put out of commons' for hunting coney, an offence which, from another entry, appears to have been committed 'in the warren of the Inn'; but he was readmitted on payment of a fine of 3s. 4d. (ib. p. 79). He was appropriately elected Master of the Revels at Michaelmas 1484 (ib. 81); and acted as 'Butler' to the Society in 1490–92, the terms of offices being from Michaelmas to Michaelmas (ib. 92, 94); he was 'Pensioner,' or collector of dues to the Society in 1495 (ib. 105) and was chosen 'Marshal,' to represent the Benchers at the Christmas festivities in 1497 (ib. 112). In 1499 he was elected a 'Governor' (ib. 120); and was Treasurer in 1500 (ib. 121); but he was fined 6s. 8d. for inattention to his duties as governor in 1504 (ib. 131) and 40d. in 1509 (ib. 153). He subscribed 30s. as a loan towards 'the new building' of the Inn in 1507 (ib. 151, 155). In 1510 he was called a serjeant-at-law and was Autumn Reader to the Inn for the same year (ib. 160). He was made a commissioner of jail delivery for Newgate in 1511 (L. and P. i. 1547), for Surrey (ib. 1548) and for St. Albans in 1514 (ib. 4742). He was in the commission of the peace for Middlesex in 1512 and subsequent years (ib. 3552 &c.). But with these distinctions his temperament remained the same, for in 1515 he was fined 12d. by his Inn 'for geuyng off one off the buttlers a blowe on the ere' ('Black Books,' i. 176). In 1523 he was nominated a collector of the subsidy for Middlesex (L. and P. iii. 3504). His will was proved in 1528 (J. C. C. Smith, 'Index of Canterbury Wills,' 1895).

<sup>66</sup> John Rooper, of Eltham, Kent; admitted a student of Lincoln's Inn, 1486; Master of the Revels in the Inn, 1490, 1491; Auditor of the Inn, 1494; Autumn Reader, 1504; a governor of the Inn, 1504;



Horslye, John Brandlynge William Dent, John Robson and John Watson Nos autem tenores predictos ad requisicionem prefatorum Cristoferi Brigham, Thome Horslye Johannis Brandlyng, Willelmi Dent, Johannis Robson et Johannis Watson duximus exemplificandos per presentes. In cuius etc. Teste Rege apud Westmonasterium quinto die Maii.

K. Mercurii xxv<sup>o</sup> Junii. (1516.)<sup>68</sup>

'Maior  
of New-  
castle  
commit-  
ted to  
the  
Tower  
for per-  
iurie.'

Dēn<sup>69</sup> Maior Ville noui castri comissus est Turri London eo quod ipse hic in presentia dominorum comisit periurium, dicens se nescire nomina eorum qui fecerunt insurrectionem apud nouum Castrum et tamen postea lectis sibi nominibus eorundem aperte confessus se bene cognoscere eorum nomina et personas ac quod ipsi interfuerunt eidem Insurrectioni, vt disobedientes dicto domino Regis in contemptu & cetera.

SELY v. MIDDELMORE.<sup>1</sup>

To my lord Cardinales good grace<sup>2</sup>

1516 Humbly sheweth vnto your Highnes your oratour Iohn Sely oon  
1522 of the kinges yomen porters at his gate and baillief of his lordship  
of yardeley in his Countie of Worcestre<sup>3</sup> That where oon Iohn

Lent Reader, 1507; Senior Bencher, 1520. He was the father of William Rooper or Roper, the son-in-law and biographer of Sir Thomas More, both of whom were members of the Inn ('Black Books' of Lincoln's Inn (1897), i. 92 &c.). He married Jane, daughter of Sir John Fineux, Chief Justice of the King's Bench. In 1509 he was a commissioner of gaol delivery for Maidstone (L. and P. Hen. 8, i. 763) and in 1513 for Canterbury (ib. 3775, 3790, 4495), and was in the commission of sewers for Sussex (ib. 274) and Kent (ib. ii. 4654), and of the peace for Kent (ib. i. 725 &c.). He was present at this case in the Star Chamber as counsel (see ib. iii. 193). On Nov. 6, 1520, he was pricked sheriff of Kent (ib. 1042). On July 3, 1521, he was appointed Attorney-General. He was acting with Sir Thomas More as counsel in 1523 (ib. 2835). In 1524 he was a commissioner of subsidy for Kent (ib. iv. 1, p. 235). His will, dated January 27, 15 Henry 8 (1524), gave rise to much litigation and was eventually interpreted by an Act of Parliament, 21 Hen. 8, c. 23 (1529), which sets it out at length.

<sup>67</sup> These and the following are the names of the representatives of Newcastle. See E, pp. 85-91 supra.

<sup>68</sup> From the MS. notes of I. Cotton,

clerk of the Star Chamber. (Brit. Mus., Lansd. MS. 639, fo. 46.)

<sup>69</sup> Roger Dent (cf. p. 103, n. 4 supra).

<sup>1</sup> S.C.P. Hen. 8, Bundle xxxii. No. 97. Introd. p. cxxxii.

<sup>2</sup> That is, as Chancellor, in accordance with the Act 'Pro Camera Stellata,' 3 Hen. 7, c. 1 (1407): 'Uppon bill or information put to the seid Chaunceller.' As to this direction see 'Select Cases in the Star Chamber' (1902), p. xv. Cardinal Wolsey was Chancellor from December 24, 1515, to October 19, 1529 ('Dict. Nat. Biog.').

<sup>3</sup> According to Nash, 'the manor of Yardeley passed to the Crown by the attainder of Sir William Beauchamp, earl of Warwick, in 15 Henry 7.' (T. A. Nash, 'History of Worcestershire' (1782), ii. 477.) This would appear to be a mistaken reference to the execution of Edward Plantagenet, earl of Warwick, son and heir of George, duke of Clarence, and the last of the male line of the Plantagenets. This took place in 15 Henry 7, namely, on November 24, 1499, though the attainder did not follow till January 19, 1504 (G. E. C., 'Complete Peerage' (1898), viii. 63). 'Afterwards,' continues Nash, 'it came to Mr. Edward Blount, Mr. Thomas Middlemore and Thomas Boteler.' On July 15, 1521, William Rugeley, yeoman of

Middelmore intruded vpon the kinges possession in his said lordship of yardley as herafter it shal appiere more at large and for trial of the trouth in the matier your bedman<sup>4</sup> hath spent an hundreth markes<sup>5</sup> sterling to his great impouerisschement hinderaunce and losses importune.<sup>6</sup>

First the said Iohn Middelmore entred vpon the kinges possession and kepte the same a yere and dimidium,<sup>7</sup> by reason wherof, alle the houses there be fallen in Ruynes and decaye.<sup>8</sup>

Item the said Iohn Middelmore toke by roial<sup>9</sup> power the kinges evidences of the kinges wydowe late the wief of Thomas Wodde the kinges bondeman<sup>10</sup> and by the said evidences make heires at his pleasure feynynge the same Thomas Wodde to be free and not bonde<sup>11</sup> to the kinges preiudice and derogacion of his Roial rightes, and that the same John may be compelled to restore and bring ayen the said evidences whiche be in nombre lxxj peces wherof lij peces be sealed dedes and xxix vnsealed and oon of the said sealed dedes do mencyon the bondage of the said Thomas Woodde and alle his auncesters to the kinges lordship of yardeley.

Item, that alle those heires whiche by craft and subtiltie the said John Middelmore ben made to the said bonde landes late apperteignynge to the said Thomas Wodde may be compelled to appiere afor your grace and there to be examyned What right or tittle they haue or can pretende to the said landes And your said bedman shall euer pray for your noble state long to indure.<sup>12</sup>

(*Indorsed in a later hand*): Sely v. Middelmore. 10.

the Wardrobe of beds, was appointed bailiff of the lordship of Yerdeley, Worcestershire (L. and P. Hen. 8, iii. 1451).

<sup>4</sup> See p. 1, n. 2.

<sup>5</sup> 66l. 13s. 4d.

<sup>6</sup> Grievous, heavy, severe (J. A. H. Murray, 'Eng. Dict.' s.v.).

<sup>7</sup> 'di.' in MS., a half.

<sup>8</sup> An offence against the Act 4 Hen. 7, c. 19, 'For kepyng up of houses of husbandrye,' as it is intituled in the Exchequer copy of the Statutes, passed early n 1489. See I. S. Leadam, 'Domesday of enclosures' (1897), Introduction, p. 2.

<sup>9</sup> Arbitrary.

<sup>10</sup> In Letters and Papers Hen. 8, iii. 2356 (7) is a grant, dated June 7, 14 Hen. 8 (1522), 'of two messuages, a cottage and land in Yardeley, Worcester-

shire, of which Thomas Wood, the King's native pertaining to the manor of Yarley, was seised, and which are in the King's hands by inquisition taken at Droytewith, Worcestershire, on September 21, 4 Hen. 8, (1512), before John Wasshburn, escheator.' This presumably fixes the approximate date of the death of Thomas Wood. His widow was apparently left in possession by the Crown. See introduction p. cxxxii.

<sup>11</sup> The meaning of this perhaps is that as the supposititious heirs introduced by the defendant were not likely to acknowledge themselves bondmen, if they were not so, he was driven to claim freedom for Thomas Wodde, from whom they derived their title.

<sup>12</sup> No more documents belonging to this case have been discovered.

BROWNE v. BUSSELL.<sup>1</sup>

To the king owre souereyn lorde.

1517 In his most humble wyse shewith and compleyneth to your most noble grace your dailie oratour Thomas Browne of Pakefeld<sup>2</sup> within your Countie of Suffolk that where as the seid Thomas the x<sup>ti</sup> daie of Februarii the viii<sup>te</sup> yeer of your most noble regne<sup>3</sup> came with his shippe to the towne of hulle in Yorke shere with ix<sup>e</sup> last<sup>4</sup> of heryng wherof was vj last Full heryng & iij last shotyn<sup>5</sup> heryng & iiij last of Sparlyng in the seid shippe beyng of your seid oratours accordyng as he had done many tyme before and whanne the seid Thomas was comyn to the seid towne of hulle to sell his seid heryng & sparlyng one Roger Bussell thanne beyng meier of the seid towne of hulle<sup>6</sup> knowyng the seid shippe to be within the port of the seid towne of hulle sent hys seruauntes into the same shippe & there caused a certificath to be made in Wrytyng of all the Warex affore seid in the same shippe beyng & whanne the seid Bussell had gotyn the trew certificath he commaundid youre seid oratour to bryng all his seid heryng & sparlyng to the londe & whanne it was comyn to the londe in the seid towne he requered of your seid oratour for euery last of the forseid full heryng ijs. iiij*d.* and for euery last of shotyn heryng xiiij*d.* and for euery last of sparlyng ij*d.* the whiche amountith in the hole to the summe of xvij*s.* & iij*d.* and because most gracious lord your seid oratour wulde not paie the forseid xvij*s.* iij*d.* to the forseid Roger accordyng to his ontrewe request the seid Roger wulde not Suffre your seid oratour to haue his seid heryng & sparlyng ageyn to his seid Shippe but compellid hym to take a howce within the seid towne of hulle to his grete cost and charge & Whanne he had takyn the Forseid howce the seid Roger wulde not suffre the seid Thomas to set hope<sup>7</sup> the dore of the same onto the tyme your seid oratour for his licens there to shewe<sup>8</sup> his seid heryng & sparlyng to sell yeffe<sup>9</sup> to hym iij*s.* iiij*d.* and thanne the same Roger wulde neither suffre hym

<sup>1</sup> S.C.P. Hen. 8, Bundle xvii. No. 368. Introd. p. lviii.

<sup>2</sup> In 'Select Cases in the Court of Requests' (Selden Society, 1898), p. 35, will be found part of a suit between certain inhabitants of Leystoft, Kyrkeley and Pakefyld, Suffolk, and the Mayor and Aldermen of Hull. That suit arose out of an attempt on the part of the Mayor and Corporation of Hull in 1533 to exact a duty of 2*s.* 4*d.* for every last of herring brought into Hull to be sold, a repetition of the grievance here complained of.

<sup>3</sup> 1517.

<sup>4</sup> 'A last of herrings is twenty cades or ten thousand.' See Murray, 'Engl. Dict.' s.v.

<sup>5</sup> 'Having ejected the spawn.' Dr. Johnson's 'Engl. Dict.,' ed. R. G. Latham, 1870.

<sup>6</sup> Mayor 1508 and 1516. J. Tickell, 'Hist. of Hull' (1798), ii. 674. This occurrence would have taken place in 1516.

<sup>7</sup> I.e. ope, open. In 1533 the toll was exacted 'for openyng of their wyndowes.'

<sup>8</sup> The payment for this license was called 'scavage,' 'schauage,' or 'shewage.' 'Fait assavoir qe "Scaweage" est dit come



to departe with his seid shippe ner heryng from thens onto the tyme the same Thomas yaffe onto the seid Roger aswell the forseid xvij s ij d & iij s iiij d as xd for his ankyrage<sup>10</sup> & pesage<sup>11</sup> the whiche amountid in all to the summe of xxij s iiij d besyde the ferme<sup>12</sup> of the seid howce and because most gracious lord your seid oratour was at that tyme & yitte is abydyng & dwellyng in the towne of pakefeld the whiche is auncien demeane and all the tenautes therin abydyng have vsed withoute eny tyme of remembraunce to the contrary to sell suche marchaunticez as is affore seid at all partys within Ingelond withoute eny tolle or custome paieng for the same<sup>13</sup> and that not withstondyng most gracious lord the forseid Roger ontruly and extorciously withoute cause reasonable but by his extort<sup>14</sup> power compelled your seid power oratour to paie to hym the forseid xxij s iiij d and because most gracious lord the seid Roger is one of the most substaunciall men & grete rulers in the seid towne of hulle & fewe men there dare doe eny thyng contrary to his wylle & mynd and your seid oratour is a very pore man by occacion wherof he is clerly withoute remedy by due curce of the comen lawe wherfor the premyssez tendirly concidred that it may please your most noble grace to graunte a Writte sub pena to be directed to the forseid Rodger Bussell commaundyng hym by the same to appere before your highnes in your Sterre Chambre at Westmestre at a daie certeyn to hym by your grace to be lymetted vnder a peyne to answeere to the premyssez and that so done your seid oratour shall dailie preie to almyty god for the preseruacion of youre most royall estate long to indure.

(At foot) pro John Irby<sup>15</sup>  
W. Throkmarston

Plegii de proseguendo. Thomas Coke de Olton in Comitatu Suffolk yoman.

Ricardus Weuer de london, yoman.

(Indorsed) Scilicet Coram domino Rege et consilio suo apud Westmonasterium in Octabis<sup>16</sup> Purificacionis beate marie proxime futuris.

"demonstraunce" pur ceo qe y covient qe marchauntz demonstrent as Viscountz marchandisez des queux deit estre pris custume.' Liber Albus, Rolls Series, 1859, ed. H. T. Riley, i. 223.

<sup>9</sup> Gave.

<sup>10</sup> Anchorage-dues.

<sup>11</sup> Charge for weighing.

<sup>12</sup> Rent.

<sup>13</sup> Ancient Domesne was the Terra Regis Edwardi of Domesday. The theory being that land in Ancient Domesne furnished the king's household with provisions, it was ex-

empt from all payment of toll. Sir E. Coke, 2 Inst. 542.

<sup>14</sup> Frequently with 'power' in the sense of extortionate.

<sup>15</sup> Presumably the signature at the foot of the petition is here, as elsewhere, that of the draughtsman, but I have not been able to verify in the records of any of the Inns of Court either of these names.

<sup>16</sup> I.e. octavis, viz. diebus, interpreted as on the eighth day, including that of the Feast, which in this case was February 2, i.e. on February 9.

PETITION OF THE JUSTICES OF THE PEACE FOR DEVONSHIRE.<sup>1</sup>

1518 To the most honorable Fader yn God my lorde  
1529 cardynall of Yeork legate to the see apostolyk And  
Chaunceler of Englund.<sup>2</sup>

Plesith hit your noble Grace at the humble peticion of the Justices of Pece yn the countie of Deuonshire that of your most graciouse & abundaunt zeles yntendyd to the comen wele of the Reyalme of Englund to be aduertysed that by the costes of the See adioyning to the seid schire is yerely grete resort of the Fyshe cald porpes wherof yf any by chaunce happyn to be takyn thofficers of the Admiraltie compell the pore men Fyschers of the same to pay & delyuere them of euery of the seid Fysch the tone half by occasion wherof the seid Fyschers thoroughe the hole Schire now vtterly surcese there labour & diligens yn takyng of the seid Fysch so that oftyn when they bryng the Fysch towarde the londe & perceyve hit is porpose they lete hit go to the see ageyne So that nother the kynges peple can be seruyd nor yet but lytell or none commyth now to the seid officers Wher as yf the seid officers were by the kynges auctoryte dyschargid no ferder to medle with the seid Fysshers yn the premissez ther wold be suche multytude yerely takyn & so many tymes of the yere that hit wold refresch with store convenyent of that Fysch<sup>3</sup> as be ynhabitant withyn all the schyres betwene London & Deuon and also partly of the rewardes of gentylnmen & other inhabitantes withyn the seid Schire and partly for ther money ther wylbe grete plesurs<sup>4</sup> of the seid Fysch be sent to the cyte of London as well to noble mens howsoldes as to other merchantes & men of worschipp withyn the seid cyte<sup>5</sup> and while the seid Justices of pes thynk the seid halff Fysches be takyn from the seid pore menn

<sup>1</sup> S.C.P. Hen. 8, vol. xii. f. 212. Introd. p. vi.

<sup>2</sup> The address to Wolsey as Legate shews the date of this to be between 1518 and 1529. See also p. 118, n. 2.

<sup>3</sup> 'Such' omitted.

<sup>4</sup> Sic, apparently for 'plenty.'

<sup>5</sup> 'In former times it (porpoise) was a common and esteemed article of food in England and in France' ('Ency. Britann.' [9th ed. 1885] s.v. porpoise). In the kitchen accounts of Humphrey Stafford, Duke of Buckingham, 1443-44, mention is made of the purchase of 1 barrel of sturgeons, 12 lampreys ('murenæ'), 1 pair of porpoises ('Compota Domestica,' pp. 14,

15; W. Denton, 'England in the Fifteenth Century' [1888], p. 210, n. 3). The same duke paid 7s. 10d. for one porpoise in 1444. In 1502 Sion Abbey gave 10s. for a quarter of a porpoise. This seems to shew that at that date porpoises were exceedingly scarce or were esteemed a great luxury. 'In 1530-33 porpoises are bought largely at Durham, at prices varying from 15s. to 6s. 8d. in 1530, with an average of 11s. 9½d. In 1531 the range is from 4s. to 13s., with an average of 9s. 8d. In 1532 the average is 9s. 1d. In 1533 one porpoise cost 1s. 8d.' (J. E. T. Rogers, 'Hist. Ag. and Prices' [1882], iv. 537).

ageynt the lawe for as moche as the kynges prerogatyff by the Statute ys but de balenis & sturgionibus<sup>6</sup> Plesith yt your good Grace at the instans of the Justices of pes and at ther humble desyere to provyde the reformation herof after your honorable wysedome & dyscrecion and that there may by auctorite of the kynges highnes some convenyent discharge had yn the premyssez to the seid Officers with proclamacion there uppon to be had thorogh the seid Schire for notice to be had to the seid Fysshers & your seid Supplyantes schall deyly pray for your prosperous Estate long to endure.

ABBOT OF PETERBOROUGH *v.* POWER & OTHERS.<sup>1</sup>

A. To the kinges most noble grace.

1518 In hys full humble wyse shewyth on to yowr hyghnes yowr contynuell Oratour and dayly Beadman the Abbott of your monastery of Peturburgh<sup>2</sup> in yowr county of Northampton Wherof yowr grace ys Fownder<sup>3</sup> that whear yowr seyde Oratour and all his predecessours tyme owte of mynde haue had Jurysdyccion and beane seasyd of a leatt<sup>4</sup> within ther maner and Towne of Peturburgh in yowr seyde County to be yearly ther holden within one moneth next ensuyng the Fest of seynt mychell the Archaungell whych Towne ys a greate Thurghfare and market Towne and wheronto myche peopull reasortyth all tymes in the yeare and be all the seid tyme ytt hath been an auneynt Custome ther vsyd that the Steward of your seid Oratour and hys predecessoures or his Vndersteward at the seid leatt shuld and hath all weyse appoyntyd suche able and dyscreate persons as for the yeare ensewyng for thexecucyon of Justice and the comon weale of the seyde Towne shuld haue excercyse and occupye the Offyces of Constabulles,<sup>5</sup> Dussenares,<sup>6</sup> Ale Tastarres<sup>7</sup> and Serchares of vytell<sup>8</sup> of

<sup>6</sup> See Introduction, p. lvii.

<sup>1</sup> S.C.P. Hen. 8, Bundle xxiv. No. 113. Introd. p. xci.

<sup>2</sup> The Abbot's name was Robert Kirton, elected 1496; died 1528 (S. Gunton, 'Hist. of the Church of Peterborough' [1686], p. 57).

<sup>3</sup> I.e. as representing Penda, king of Mercia, the actual founder in A.D. 650 (Dugd. 'Monast.' i. 344).

<sup>4</sup> A court for the presentment of offences against the peace, also employed as a court for breaches of manorial custom. See F. W. Maitland, 'Select Pleas in Manorial Courts' (Selden Soc. 1888), p. xxxvii. This claim to prescribe is, doubtless, founded

upon the finding of the jury in the proceedings Quo Warranto. Placita Quo Warranto ('Record Commission,' 1818), p. 556. See also 'Chronicon Petroburgense' (Camden Soc. 1849), p. 45.

<sup>5</sup> The office of Constable was attached to manors which had the right 'pur garder les prisons.' Stat. Westm. i. c. 15 (1275). In the great Police Act of Edward 1, called the Statute of Wynton (1285), it was enacted that 'en chescun hundred e fraunchise seyent eleus deus Conestables a fere les veues des armes.'

<sup>6</sup> Decionarii or tithing men. 'Select Pleas in Manorial Courts.' (Selden Soc. 1888). See Maitland, p. xxix.



and within the same Towne wherof be many in number Accordyng to which auneynt Custome att the leatt holdun thear at the Feast of seynt mychell thearchaungell last past<sup>9</sup> one Rychard Burton Esquyre<sup>10</sup> deputye & Vndersteward on to sir Thomas lovell knyght<sup>11</sup> hygh steward of the same leatt accordyng vnto the seyd auneynt custum and lawdable vse wold haue appoynted and deputyd certeygn dyscreate sadd<sup>12</sup> and abull persons to haue occupied the seyd Romes and offyces for thys yeare to cume. Soo ytt ys moost gracyouse souereygn lord thatt one John Power of the seyd Towne mercer Watur Baker of the same Towne yoman Petur Edward of the same Towne mercer Robert Tooche and Robert Alen of the same Towne husbondmen and John Morton of the same Towne dyar sedyeyouse persons & of moche froward obstynatt and Wylfull condycyon takyng vppon theym to subvertt the seyd auneynt custome and good ordur and to rewle the seyd Towne aftur thear sensuall myndes and froward appetytes in subdewyng of your seyd Oratour and hys Offyceres wold not suffer the seyd Rychard Burton accordyng vnto the seyd auneynt custome to appoynt the seyd Offyceres butt with greate hygh wordes seyd all the same Offyceres shuld be att thear appoyntment<sup>13</sup> and suche as they

<sup>7</sup> The lords of manors 'had very generally assumed the right of enforcing the assize of beer. . . . An assize of bread and beer fixing the price of those commodities seems to have been published in 1256.' ('Statutes of the Realm,' i. 199; Maitland, p. xxxviii.)

<sup>8</sup> 'The lords did not as a rule assume that they were to execute the assize of bread' (ib.). But the abbots of Peterborough did. See *Placita Quo Warranto*, p. 556. According to Coke, 'This court of the leet may enquire of corrupt victuall as a common nuisance.' He bases this statement, which had been a matter of controversy, upon the Act 12 Edward 4, c. 4, which recites the 'surveying of all victuallers and correction and punishment of the offenders and breakers of the assize' as among the functions of the leets (4 Inst. 261, 262). The power of punishing the adulteration of ale was held to be given to the lord of the leet as an incident to the assize. Malt, having been held to be no victual, was not within the assize, but, in Coke's opinion, the sale of unwholesome malt was punishable at common law (ib. 263).

<sup>9</sup> September 29, 1517.

<sup>10</sup> Sheriff of Northants in 15 Henry 7 (1500). J. Bridges, 'Hist. of Northamptonshire' (1791), i. 7. In the commission of the peace for Northants in 1511 (L. and P. Hen. 8, i. 256, in 1514 (ib. 5658), in 1515 (ib.

ii. 694), and in 1515 a commissioner of sewers for the same county (ib. 695). On January 27, 1519, he was appointed one of a commission of five to inquire, as between the King and the Abbot of Peterborough, into the ownership of a piece of waste land called the 'North Fenne' in the same county (ib. 1444). He was a commissioner of subsidy for Northants in 1523 (ib. iii. p. 1366) and of the peace (ib. 3677). Upon the occasion of the famine of 1527, he was appointed a commissioner to search for corn concealed in the county in order to enforce sale at the nearest market (ib. iv. 3587). He last appears on the commission of the peace in March 1531 (ib. v. 166, 11).

<sup>11</sup> Sir Thomas Lovell, K.G., educated at Lincoln's Inn. 'It is requisite that the Steward of this Court be learned in the law' (Coke, 4 Inst. 265). Appointed Chancellor of the Exchequer for life, 1485; K.G. 1503; High Steward of the Universities of Oxford and Cambridge, 1504; died 1524 ('Dict. Nat. Biog.').

<sup>12</sup> 'Grave, serious' (J. A. H. Murray, 'Eng. Diet.' s.v. Sad).

<sup>13</sup> 'The constables or petty constables are chosen by the common law at the leet or torn' (Coke, 4 Inst. 265). From the examples in 'Select Pleas in Manorial Courts' it would seem that the communal officers were either directly chosen by the suitors or proposed to the steward for selection.

shuld name and assygne for that pourpose shuld haue and occupye the seyd Romes und noon othur, And so putt the same Rychard Burton with ther greate manassys in suche feare that he durst noo further procede to the Fynyshyng of the same leatt but was feyne to departe & leafe all the same offyceres at large on sworn. Soo that att thys day the seyd Towne ys destytute of all the seyd Offyceres and noo man appoynted to doo your grace seruice in ony of the seyd Offyces whatt casueltie or chaunce soo euer shuld befall And furthermore wheare your seyd Oratour and all his predecessours in the right of your seyd monastery are and syth the primar Fowndacyon off the same haue bean seasyd in ther demeane as of Fee of a waste ground or Fenne called Burugh Fenne adioynyng to your said monasterye wheare in the tenautes of your seyd besechares of the seyd Towne shuld & haue hadd ther comen of pasture in a resonable maner too and for a serteygn nombur of cattull, now the seid John Power, Watur Baker, Petur Edward, Robert Toche, Robert Aleyn & John Morton all beyng tenautes but att the wyll of yowr seyd oratour excepte the seyd Robert Toche, whych ys a Free holder, takyth vppon theym as owners of the same Fenne and lordes of the soyle therof to ordur nott oonly for theym selffes but for othur the inhabitautes of the seyd Towne, as well shomakeres Tayloures as also all othur craftysmen of the same Towne that they and euery of theyme shall depasture and comen in the same Fenne with ther cattall saunce<sup>14</sup> nombur, and to the more expresse wronge of your seyd oratour they wold not suffer him to keape ony cattell in the same grownd<sup>15</sup> beyng his owne propur grownd very soyle and Freehold as in the ryght off your seyd monasterye, which were agenst all ryght reason and good conscience.<sup>16</sup>

And ouer this the persons aboue namyd with certeygn other of lyght<sup>17</sup> condycion inhabitautes of the seyd Towne haue in suche wyse confederatyd<sup>18</sup> bondyd and lynkyd theym selffes to gythur that what so euer eny tyme ys to be executed for the good Reuyll<sup>19</sup> or

See also W. H. Hale, 'The Domesday of St. Paul's' (Camd. Soc. 1858), p. xxxvi. But the custom of the manor prevailed, and this, according to the Abbot, assigned the appointments to the steward, though apparently with the concurrence of the suitors, which suggests that they nominated in the first instance, as, according to their answer (B) was the case. Fleta, in his chapter 'De officio communis Senescalli' (pt. ii. c. 72), speaks of 'servientes per electionem fide dignorum in plena Curia.'

<sup>14</sup> Sans.

<sup>15</sup> Presumably they presented the pasturing of the Abbot's cattle as a nuisance, the presentment of nuisances being their special business.

<sup>16</sup> The freeholder's rights of pasture were protected under the Statute of Merton (20 Hen. 3. c. 4); tenants at will had none.

<sup>17</sup> 'Of small account' (J. A. H. Murray, 'Eng. Dict.' s.v.).

<sup>18</sup> A term of art (see 3 Hen. 6, c. 1 [1424]).

<sup>19</sup> Rule.

comon weale of the seyde towne by eny the officeres of your seyde Supplyauntes<sup>20</sup> Or cleymyd or demawndyd by hym or eny hys seyde offycceres as the right of his seyde churche yff ytt be nott consonant or aggreable to the wyllfull myndes and froward appetytes they furthwith gather and assemblull theym selffes to gythur in greate compaynes and cumyth on to your seyde besecher sume tyme in hys churche and sume tyme in other partyes of your seyde monasterye lycke as they haue doon dyuers tymes now lately. And ther with myche on syttyng<sup>21</sup> langage full opprobriously and dyspyetfully they do face<sup>22</sup> Crack<sup>23</sup> and embrace<sup>24</sup> hym whyche ys a manne of greate age wherby he ys putt in greatt dawnger and Feare & moche trobull & contynewell vexacion And thus ryght gracyous souereyn lord the seyde personys by ther great cruelty and malyce intendyth vtterly to subdewe your seyde Oratour & his seyde Officeres in suche wyse that they shall nott dare nor be able to ordur Ruell nor guyde the seyde Towne nor Represse the mysdoares of the same nor also cleyme ne demawnd the ryght of your seyde monastery as to hym apperteygnyth with owt your gracyouse favour be to hym in thys behalffe shewyd. In consyderacion wherof the premyssys tendurly concydneyd ytt may please your hyghnesse by one of your seriauntes att armys<sup>25</sup> to commawnd the seyde John Power Watur Baker Petur Edward Robert Toche Robert Aleyn & John Morton (whyche are dayly goyng & cumyng to Westminster) personally to appere before the lordes of your most honorabull cowncell to Answear to the premyssys and to abyde suche furthur ordur and dyreccion in the same as by your seid Cowncell shalbe takun in that be halve and your seyde Oratour accordyng to his naturall dewtye shall contynewelly pray to Allmighty God for your moste royall estate long & prosperously to endure.

(Indorsed) Abbas de Peturborough.

<sup>20</sup> A genitival s, the Abbot being the petitioner.

<sup>21</sup> 'Unsitting, unsuitable' (Halliwell, 'Dict. of Archaic Words' (2nd ed. 1850), s.v.).

<sup>22</sup> To face, 'to confront with assurance or impudence' (Murray, 'Eng. Dict.').

<sup>23</sup> To crack, 'to talk scornfully of' (ib.).

<sup>24</sup> To embrace, 'to encircle, surround' (ib.).

<sup>25</sup> 'A Sergeant at Arms, Serviens ad Arma, whose office it is to attend the person of the King, to arrest Traytors or Persons of Quality offending. Of these by the statute 13 Ric. 2, c. 6, there may not be above thirty in the realm' (Cowel,

'Interpr.' s.v.). The ground of this limitation was the constant complaint of the Commons of these officers 'qui font grant oppression et extorsions par colour de leur office a la poeple' (Rot. Parl. iii. 223 a 10 Ric. 2 [1386]). The same complaint was renewed three years later, the Commons declaring that the ancient customary number was twenty-four, to which they petitioned that they might be reduced. The King's answer was that they should be reduced to thirty (ib. 265). Five years later (1394), the king was petitioned to carry this promise into effect (ib. 318 b) and the complaint was



B. The Aunswer of John Power Walter Baker Petur Edwardes Robert Touche Robert Alyn John Morton Dyer to the Byll of Complaynt of the Abbott of Peterborough.

The seid John Power and other beforenamed seyn that the seid Byll is Insufficient and vncerten to Compell theym to Aunswer therunto and the matter therin Conteyned is oonly Surmysed to putt the same John Power and the other before named to vexaccion and troubull and for none other cause Howbe it for declaracion of Trouth the same John Power and the other before named seyn that at the lawdaye,<sup>1</sup> holden in the same Towne at the Fest of seynt Mighell the Archaungell yerly or ther aboute hath beyn vsed duryng the tyme that no mans mynde is to the Contrary within v wardes of the same Towne which byn conteyned in seuerall partes in the same Towne ther hath byn v Cunstables that is to say in euery ward oon for the conseruacion of the kynges Peace and other good Rule to be kepte within the same whiche Cunstabulles at the seid lawdaye yerly have byn elected by all the seid Tyme in maner and fourme folowyng that is to sey the Cunstabulles for the tyme beyng of the same Towne hath yerly duryng the seid Tyme vsed at the same lawdaye to present iii persons beyng Inhabitautes within the same wardes seuerally that is to sey of euery ward iij abull persons to the Great Inquest as they thought Sufficient to Occupy the seid Offices<sup>2</sup> whiche persons so presented and by the great Inquest affermed to be abull to Occupy the seid Office theruppon the lord abbott of the seid Monasteri for the tyme beyng by hym selff or by his Steward hath named oonly oon of theym iij so presented within euery warde by the Great Inquest so affermed to Occupy the office of Cunstabulles within the seid wardes for the yer Folowyng and none other persons haue byn by all the seid Tyme otherwyse Elected ne appoynted tyll now of late that the seid Abbott and the seid Richard Burton his Steward Contrari to the seid Auncient Custome at the lawdaye in the seid Towne holden at Mighelmas last passed named at their owne wyll other persons to Occupy the same offices within the seid wardes nott presented ne affermed by the great Inquest whiche in tyme passed such a president hath nott byn seene by Occasion wheroff the persons abouenamed and meny other of the same towne beyng ther sewed to the seid Steward in Good maner that it was

renewed in 1397 (ib. 354 a). As there are no further complaints after that date, it is probable that the House of Lancaster, scrupulous to conciliate Parliament, effected the reduction desired.

<sup>1</sup> 'Otherwise called View of Frank Pledge or Court Leet' (Cowel, 'Interpr.' s.v.).

<sup>2</sup> See A, p. 124, n. 13 supra.

nott Conuenient to breke the seid Old Custome. Wheruppon the seid Richard Burton toke advysment what the lawe woold in that behalff tyll the end of Crystmas then Folowyng and wente to the Wyne<sup>3</sup> and Drank with the seid persons before named, Without that the seid John power and other affore named or eny of theym byn Gyltye of Subuertyng the Auncient Custome or of eny suche mysdemenour or mysorder in eny other maner then as is before Specified and without that the Auncient Custome for Appoyntyng of the seid Cunstabulles haue byn vsed in suche maner and fourme as the seid Abbott hath alleged in his seid Byll of Complaynt. And further the seid John power and other afforenamed seyn that they and all other Inhabitauntes of the seid Towne duryng the tyme that no mans mynd is to the Contrari for the whyle that they haue Inhabited in the same Towne haue hadd and vsed to haue Comen of Pasture in the seid wast called Bourgh Fen for their Catell without eny admesurment<sup>4</sup> tyll now of late that the seid Abbott hath letted and disturbed the seid Inhabitauntes of their seid Comen by his great myght and power and puttyng in of his Bestes Oonly, without that the seid Inhabitauntes wer or in tyme passed haue byn lymyted or admesured to eny certen nowmber of Catell to be vsed in the seid wast of or for their seid Comen of Pasture as in the same byll is also alleged and without that the seid John power and other wold nott suffer the seid Abbott to Occupy with his Catell to pasture in the same Comen<sup>5</sup> And ouer that the seid John Power and other before named for that the seid Abbott had Imparked parcell of their churche yerd where their Frenches were Beried and meny other persons of the seid Towne and therwith Inlarged his parke<sup>6</sup> and by reason therof they made a byll of Certen Articles emonges other concernyng their grevys and aboute Midsomer last passed the seid John power and other affore named and meny other persons of the same Towne at the Commyng of my lord the Bysshopp of Lyncolne<sup>7</sup> to the seid Towne they came to make their humble petition to the seid Bysshopp and sewed their grevys and wronges afforseid emonges other that the seid lord Abbott had done to the Inhabitauntes and to his Tenauntes.

<sup>3</sup> Qu. an inn called 'The Vine.'

<sup>4</sup> A claim to 'common *sauns nomber* in grosse.' Coke lays down that this 'must be by writing or prescription' (1 Inst. 122, a), cf. A, p. 125 supra.

<sup>5</sup> Coke lays down that though there be a claim to common *sauns nomber* in grosse, 'yet the tenant of the land must common or feed there also' (ib.); a fortiori the lord. See ib. 121 a. As to a special custom excluding the lord, see Coke, 'Rep.'

iv. 31 b, pl. 25, n. B, and 'Trans. R. Hist. Soc.' N.S. vi. 210, n. 3.

<sup>6</sup> Called Meldesworth. See 'Domesday of Inclosures,' edited by I. S. Leadam, 1897, i. 274, and Introduction, p. xciii supra.

<sup>7</sup> William Atwater, born about 1440, Fellow of Magdalen College, Oxford, 1480, and perhaps Wolsey's tutor; D.D., 1493; Bishop of Lincoln, 1514. Died 1521 ('Dict. Nat. Biog.').

of the same Towne requyryng hym to move and Sterre the seid Abbott to be their good lord and to suffer his seid Tenautes to vse and haue suche Commodities Customs and Freedoms as before his tyme they and other Inhabitautes of the same towne Pesably have Inioyed and hadd and theruppon delyuered a byll of Articles of their Grevys and the seid John Power and other before named and meny other duryng the Tyme of the beyng of the seid Bisshopp ther where<sup>8</sup> at dyuerse tymes came into the seid Monasteri in good and honest maner to make their sute to the seid Bysshopp to haue remedye of their seid grevys. Whiche Bysshopp at his departyng frome thens when he toke his horse yaue theym all his Blessyng and seid the seid Inhabitautes should be Ordered Ryght well and that my lord Abbott wold be good lord vnto his seid Tenautes and Inhabitautes of the seid Towne. Howbe it that nott withstondyng the seid lord Abbott after the seid lord Bysshoppes departyng lyttill or nothyng remedied the seid Inhabitautes of their seid Articles and grevys butt Chose the Cunstabulles att his will contrari to the Custome therof vsed by Reason wherof in the Terme of Seynt Mighell last passed the Inhabitautes of the seid Towne by oon assent sent vpp the seid John power and other afforenamed to make further Sute to the seid lord Bysshopp of Lyncoln for Redresse in the premysses without that the seid John Power and other before named and the Inhabitautes of the same Town haue Confederatt Bonded and lynked them selffes or haue Threted or hadd great and high woordes feryng<sup>9</sup> the Monkes and seruautes of the seid Monasteri or eny other thynges haue Done wherby the Officeres of the seid lord Abbottes shuld be letted to doo eny thyng that shuld be done ther for the Comen Welth butt oonly hath made their humble Sute for the Reformacion of their seid grevys as is afforseid And without that eny thyng materiall in the seid Bill Conteyned necessari to be trauersed is true all whiche matters.<sup>10</sup>

(Indorsed) From sir John Husce knight<sup>11</sup> and Richard Clem . . .<sup>12</sup>  
in a cause bitwen thabbote of Peturburgh and  
thinhabitautes of Peturburgh.

Abbot of Peter	(In a later hand)
Borow	Peterborough
ayenst Power and other	Abbot of v.
his Neighbours	Power et al.

Peturburgh

R. de Rico ogle

<sup>8</sup> Qu. intended for 'were . . . come.'

<sup>9</sup> Frightening.

<sup>10</sup> End of answer.

<sup>11</sup> See C, p. 130, n. 4 infra.

<sup>12</sup> Last three letters faded. For Richard Clement see C, p. 130, n. 5, infra.



C.<sup>1</sup> The saying of Dane<sup>2</sup> Rychard Oxford<sup>3</sup> Receyvour of the Monastery of Peterburgh Sworne afore sir John Husey<sup>4</sup> knyght and Rychard Clement<sup>5</sup> esquier.

The seyde dane Rychard seyth and deposityth thatt one Roberte Alen of Peturburgh sayd that yf ony man com in to the fenne thatt he wold keape hys comyn or elles he wold sley or be slayne and seyde he wold take hys wepyn with hym in to the Fenn and theyse wordes wer spokyn when my lord of Lyncoln<sup>6</sup> was att Peturburgh<sup>7</sup> that was vpon the assumpsyon of owr ladye last past.<sup>8</sup>

The saying of Edward Grenehall Marshall<sup>9</sup> vnto my lord of Peturburgh onsworne.<sup>10</sup>

The seid Edward sayth that ther was a lytull grownde inclosyd in the fenne by Reason of makynge of a Weyre dyke wherin ther grew

<sup>1</sup> S.C.P. H. 8, Bdle. xxi. No. 109.

<sup>2</sup> Dane, Dan; a corrupt abbreviation from Dominus, 'used in addressing or speaking of members of religious orders' (J. A. H. Murray, 'Eng. Dict.' s.v.).

<sup>3</sup> The surname was probably the place of his birth, adopted at his profession, as was then the fashion. See R. Holinshed, 'Chronicles' (1808), p. 213.

<sup>4</sup> Eldest son of Sir William Husey or Hussey &c., Chief Justice of the King's Bench. A member of the Privy Council early in the reign of Henry 8. Summoned to the House of Lords as Lord Hussey in 1529. He attached himself to the conservative party and was executed in 1537 for complicity with the Lincolnshire Rising ('Dict. Nat. Biog.').

<sup>5</sup> Of the Moat, Ightham, Kent. Married Anne, daughter of Sir William Catesby of Northants (E. Hasted, 'Hist. of Kent' [1782], ii. 247), and widow of Lord John Grey, brother of Thomas Grey, marquis of Dorset (N. H. Nicolas, 'Testamenta Vetusta' [1826], ii. 652). He was a commissioner of sewers for Northants, Cambs, and Lincolnshire in 1515 (L. and P. ii. 495, 695), a Gentleman usher extraordinary in 1516 (ib. p. 873). In 1519 he and Thomas Clement obtained a royal writ notifying to the abbot and convent of Peterborough that they were to be admitted to a corrody in the monastery (ib. iii. 405 [5]). He was fond of clerical society, for on 9 February 1524, he paid 80*l.* to William Abbot of Lesnes, or Lesnes, otherwise Westwood, Kent, for an annuity of 10*l.* and a residence in the Upper Gatehouse of the monastery (ib. iv. 99). The honorary posts of 'Gentlemen Ushers out of wages' were distributed

among representatives of the counties, and in this body Richard Clement appears in 1526 as representing Northants (ib. iv. 1939 [8]). In April 1528 he was present at Archbishop Warham's palace at Otford when the priate received the complaints of the yeomen of Kent who were discontented at the exaction of the forced loan (ib. 4188). His wife died the same year (Hasted, l.s.e.). He was knighted at Whitehall in 1529 (C. Metcalfe, 'Book of Knights,' p. 61). In 1531 he was in the commission of the peace for and sheriff of Kent (L. and P. v. 119). He was among the knights present at the coronation of Anne Boleyn in 1533 (ib. vii. 562). His sympathies were probably with this party, for in February 1534 he was entertaining the marchioness of Dorset at his house, 'The Mote' (ib. vii. 153), and in 1536 the Government appears to have expected from him a levy of twenty followers for service against the Northern rebels (ib. xi. App. 8). His will was proved in 1538 (J. C. C. Smith, 'Index to Canterbury Wills'). He died childless, leaving his sister, married to Sir Edward Palmer of Angmering, Sussex, and his brother John Clement his co-heirs (Hasted, l.s.e.).

<sup>6</sup> See B, p. 138, u. 7, supra.

<sup>7</sup> Peterborough was in the diocese of Lincoln.

<sup>8</sup> August 15, 1517.

<sup>9</sup> The duties of the 'marescallus,' whose business it was to look after the horses of a manor &c. are set out in Fleta, lib. ii. c. 74. This witness left a will, proved in 1538, and was probably a person of some position (J. C. C. Smith, 'Index of Canterbury Wills').

<sup>10</sup> Coke, in his chapter on commis-

certeygn Fodder<sup>11</sup> and Further he seyth thatt in the latter end of July<sup>12</sup> or therabought ther assemblyd to the numbre of xxx<sup>ti</sup> men or therabowte with sythes and Fellyd downe the seyde Fodder of one daye and further he sayth thatt he and Eylls Huse went in to the seyde fenne and made iij gappes and soo putt in the town beastes to take ther comyn and soo departyd home and further he sayth thatt the Styward told hym thatt one of the Town whoos name he knowyth nott yett seyde when he dydd Reportt hit vnto dyuers of the Towne They sayed thatt yf they had known the throwyng downe of the seyde iij gappes ytt shuld have been spokyn of an hundred yeres herafter. And soo on the next daye they cam with Cartes to numbur of<sup>a</sup> with forkys<sup>b</sup> and soo Fetchyd the seyde Fodder away.

The saying of Dane Wyllyam Boston<sup>13</sup> Sworne.

The seyde Dane Wyllyam sayth thatt after my lord of Lyncoln and the abbott of the Monastery of Peturburgh had spokyn with the Townysmen in owr lady chappell he hard wordes of soo greatt contencion by one Water baker mynysterd to Thomas Whetley seruaunt to the seyde abbott beyng in the chyrch thatt the seyde Dane Wyllyam boston thought verely thatt the seyde Water Baker wold have vyolently strykyn the seyde Thomas Whetley in thatt holy place of god. In the exchewyng wherof the seyde dane Wyllyam Boston beyng a lyttull besydes<sup>14</sup> made greatt spead to the seyde Thomas Whetley and toke hym with hym From the Company of the seyde Watur And thys doon the seyde dane Wyllyam boston went to a certeygn Chamber callydd the Checker<sup>15</sup> for thentent to pay certeygn money and to solysset other matteres that he had thear to doo. Wher he fownde a greatt multytude of peapull of the towne amountyng as he myght conseyence coniecture to the Number of xl persoons or moo beyng in a great marvelous furye and angre as ytt appearyd not onely by ther countenaunce and gesture butt also by ther Innumerable onresonable opprobryous wordes and with cumpany the afforseyd dane Wyllyam boston accordyng to good maner and as tokyn of amytee profferyd

opprobrious  
wordes.<sup>c</sup>

<sup>a</sup> A space is left here.

<sup>b</sup> 'and stavys' struck out.

<sup>c</sup> The marginal notes are in another hand throughout.

sioners for examination of witnesses (4 Inst. 278), assumes that the witnesses are sworn, and the power was habitually given to commissioners in Star Chamber inquiries, as in the Mayor &c. v. the Artificers of Newcastle, p. 83. 'Unsworn' here perhaps refers to the complaint, though this official is not men-

tioned among those whom the understeward had not sworn in. But see Sparke's evidence, p. 138, *infra*.

<sup>11</sup> Apparently here used in the sense of grass for making hay.

<sup>12</sup> 1517.

<sup>13</sup> Cp. n. 3, *supra*.

<sup>14</sup> Aside.

<sup>15</sup> I.e. Exchequer.

theym to drynck for the intent sumwhat to moderatt and pacyffye ther great Furye, but they renouneyd ther proffer saying playnly they wold noon. And perchaunce cometh by Thomas Wheatley to whom Water baker seyde callyng hym knawe thatt and yf he cam withowte the yates<sup>16</sup> he shuld have hys head or Crown crackyd and Thomas Wheteley sayd ayen and yf he gave hym one strype he shalbe suer of an other strype. Then seyde Robert Toche nay and yf ye goo to strypes ye shall haue strypes enough emongyst yow and ther withall the seyde dane Wyllyam boston beyng in great feare went in to the checker and iij men folowyng hym with whoom he had certeygn bysynes and shytt the doore to hym and then Robert Edward opunly with an hye exclamacion and dyuers other dyd banne and curse the abbott of the monastery with many other shamefull wordes and emongyst all petur Edward seyde on to the Company hard ye nott Syrs how Falsly he (referryng ytt to the abbott) made a lying excuse saying that he myght nott<sup>17</sup> stand and Full Judasly<sup>18</sup> for yf ytt wer to oppres or ondoie a poore man he wyll fynd the means to stand an hoole afternoon to the whych petur dane Wyllyam boston sayde beyng in the Checker and the other withoute thatt ys vnmanerly spokyn and in espycally of yow that ar or woldbe reputyd as a man of honestee thus to rayle vppon an honorable prelett and speycally in thys the kynges and hys monastery and in hys absens to the whyche answerd the seyde petur Honorable, nay he ys the dewle<sup>19</sup> the dewle dyuers tymes repetyng the same and addyng thertoo butt and thow thynck ytt nott well seyde cum thow Forth and amend ytt or<sup>20</sup> the prowdest of yow all Then the seyde dane Wyllyam boston sayde I am a relygyouse man and a preest wherfor I may nott amend ytt as ye doo move me butt in the persoon of my master I doo counsell and alsoc monyssh yow to aduoyde hys howse or elles to seasse of yowr Raylyng for thys ys noo place of Jestyng. butt to thys answerd all they thatt they wolnott goo owte of the monastery for hym nor yett for hys master. Thomas Stanley and Wyllyam Gee Testyfye that the seying of dane Wyllyam boston be trew, and Thomas Whetley John Caldecott and Robert baker seyth the same.

Alsoo the forseyd Edward Grenehall seyth thatt one Wyllyam alen told hym thatt the same tyme the peopull afforseyd assemblyd

<sup>16</sup> A dialectical form of 'gates.'

<sup>17</sup> I.e., as presently appears, could not.

<sup>18</sup> Treacherously; like Judas.

<sup>19</sup> 'Devil.' See for this and kindred forms Murray, 'Engl. Dict.' s.v. Devil.

<sup>20</sup> Apparently transferred from its meaning of 'before' in time to the same meaning in space. No such use is given in J. A. H. Murray, 'Engl. Dict.' s.v. Or.



affore the Checker thatt they wer cursydly dysposyd and thatt yf the seyð Thomas had cum forth he shuld have bee in Jeopardy of hys lyef.

The Saying of Thomas Whetley sworne.

The seyð Thomas sayeth thatt a greatt Cumpany of the Town cam abowght my lord of Lyncoln and my lord of Peturburgh in owr ladyes Chapell,<sup>21</sup> and the baylyef Jamys barry preasyd in emongyst theym for the Socoor of my lord of peturburgh and than and thear Water baker shulderyd the same Jamys and seyð lett me cum to hym and I shall keap hym owte and soo dydd shulder hym owte. Vppon thatt the seyð Thomas axyd why he dyd soo then the seyð Water baker answerd to the same Thomas and sayed amend ytt thow yf thow canst and whysshyd<sup>22</sup> them booth owte of the church etc.

The Seying of Thomas Freeston preest Master of the Children.<sup>23</sup>

The same sir<sup>24</sup> Thomas seyth thatt one sir Henry Ogle desyeryd hym to gyve warnyng to the aboueseyd Thomas Wheattley to keap hym owte of the Towne. For yf he cam in to the Towne he seyð Water baker and dyuers moo bee dysposyd to fyght with hym and to beatt him.

The saying of John Holte.

The same John seyth thatt John Powur gentleman made a sawte<sup>25</sup> of the same John Holte from hys owne doore to the abbey yate and thear breke the head of the same John Holte ayenst the kinges peace for askyng of my lordes ryght. Item the same John powur made afrey vppon Robert Colyar bocher the xx<sup>ti</sup> daye of September last past<sup>26</sup> and had lyke to have styckyd hym with hys daggar for seyng of the kynges peace keapte.

An other sayinges of the same John Holtt.

The same John seyth thatt Robert Alen of Peturburgh husbondman the xj<sup>th</sup> day of Nouember last past<sup>27</sup> pyckyd a quarell and examynynd the same John of the dryfte<sup>27</sup> of the Fenne (in the howse of

<sup>21</sup> N. of the choir, built in 1274 and demolished in the 17th century (J. Murray's 'Guide to Northamptonshire' [1901], pp. 69, 74).

<sup>22</sup> Whisked.

<sup>23</sup> Presumably of the choir.

<sup>24</sup> Sir. This title is generally taken to apply to clergy who were graduates, Bache-

lors (of Arts), bas chevaliers, according to the derivation long current, being accorded the same title as knights bachelors. The academical equivalent was and is 'Dominus.'

<sup>25</sup> Assault.

<sup>26</sup> 1517.

<sup>27</sup> 'The driving of cattle' (J. A. H. Murray, 'Engl. Dict.' s.v.).

Gefferey Kysby) saying thow art a pollyng<sup>28</sup> knave for thow woldys nott delyuer one of my bullockes except my seruauant had gyvyn the a peny and the same John seyde nay thatt cannott be provyd, and the same Robert seyde then with malycyouse wordes, I shall make thy head Ronne thorow a dysshe<sup>29</sup> yf thow spekest ony moo wordes.

The saying of Robert Harryson sworne.

The seyde Robert seyth thatt Petur Edward of Peturburgh mercer sayed vnto hym thatt if<sup>a</sup> he wold goo to London and speke ayenst my lord of Peturburgh in the quarell of the Townes men he wolde<sup>b</sup> pay all the dettes thatt the same Robert Harryson owght vnto my lord abbott afforseyd and yf ytt wer xx<sup>ti</sup> nobulles<sup>30</sup> and thatt besydes all thatt he shuld haue vjs. viij*d*. for a fee of the Towne of peturburgh aforseyd yerely for Terme of hys lyef, and whan the same Petur perceyvyd thatt the seyde Robert wold nott goo with theyme he seyde vyolently on to hym I shall gyve the a quart of Wyne<sup>31</sup> and Tell ytt onto the abbott thy master.

The sayng of John Caldecott Sworn the iiij<sup>th</sup> day of December in the yere aforesaid<sup>32</sup> is thys. That abowght the Natiuite of Seynt wordes. John the Baptyst<sup>33</sup> one sir Henry Ogle bacheler of arte reaportyd on to the seid John Caldecott that he perceyvyd by dyuers of the inhabitantes of the town of Peturburgh they were myscheuously disposyd agenst the abbott of the same for so myche as one Watter Baker Alen and dyuers other of the same inhabitantes whom the same sir Henry knew not sey that they wold rather bete or be betyn kyll or be kyllid then the seyde abbott or ony other shuld estopp them in caryng away of fodder forth of Burgh fen whiche they hadd fellyd in the seid fenn. And more over they seyde it was prophesyed thatt the abbey shuld be dystroyd by murdur, wyth many other opprobrious and onfyttyng wordes at that tyme by them hadd.

<sup>a</sup> 'if' interlined.

<sup>b</sup> 'he wolde' altered from 'and how thatt.'

<sup>28</sup> Plundering; to poll, to plunder by excessive taxation (ib.).

<sup>29</sup> Qu. for dyche, a form of ditch, the threat being that he would make a ditch run full of witness's blood: or possibly 'will break a dish over your head'?

<sup>30</sup> A noble was a coin varying in value, generally reckoned at 6s. 8*d*. In 1542, an old noble, called a Henry, was worth 10s.,

a noble called a George, 6s. 8*d*. (Murray, 'Engl. Dict.' s.v.).

<sup>31</sup> Qu. whether this is a covert threat, meaning to draw blood: cp. the 'claret' of the prize ring.

<sup>32</sup> The year has not so far been mentioned in these depositions. It was 1517.

<sup>33</sup> June 24, 1517.†

Also the seid John Caldecott Sworn seith that on all Halow Day at nyght last past<sup>34</sup> he was in the howse of one Antony Wylkynson of Peturburgh mercer ther makyng mery and passyng the tyme honestly. In cam one Thomas Wodale paryssh clerk and seruaunt to the vicar<sup>35</sup> of the same town and than and there stroke the same John Caldecott on the mouth with hys hond so that he made hym spytt blode. And after that ymmedyatly gave hym ij or iij buffyttes on the hedd with hys fyste. The seid John gyvyng hym no cause so to, nor knowyng to what purpose but for to pyk quarelles and cawse further myschefe to have byn wraught amongyst the inhabitantes abovesaid.

breche of  
the peace.

The saying of Robert Baker sworne the day and yere aboue said that the viij<sup>th</sup> day of Nouember last past<sup>26</sup> sayeth that he met with one Petur Edward of Peturburgh aforesaid mercer whiche axyd hym whether he shuld have hys Catell or nott (whiche Catell amongyst otheres of the inhabitantes abovesaid was dryvyn vewed<sup>36</sup> by the Commaundement of the abbott aforesaid) the said Robert answeyrd who seith nay. Than the seid Petur Edward sayd by goddys naylys<sup>37</sup> we wyll have owre Catell or we wyll go to gether by the eares,<sup>38</sup> to whom the same Robert said it were better nay, yes quod the seid Petur by the masse and than shall we be at an ende and by goddes naylys my lord doth nougt but extorcion.

The sayng of Jamys Barry sworne.

The same Jamys seith that Robert Alen and John Suklyng of the same town were syttyng at the Swan within the same town at whiche tyme the seid Jamys and Thomas Whetley howsehold seruauntes to my lord of Peturburgh at whiche tyme the seid Robert Alen began to Ryse and one John Dyxson bad hym sytt styll and kepe company. Then the seid Robert Alen and John Sucklyng seid Neybour Jamys we be not beholdyng vnto you ye do rayle and call my neybour Sucklyng red facyd knave and if we had met wyth yow that tyme and axyd yow the questyon it wold have made afray yf ye had byddyn<sup>39</sup> by ytt.

<sup>34</sup> November 1, 1517.

<sup>35</sup> 'Parish clerks were, heretofore (i.e. before 1603), real clerks, of whom every Minister had, at least, one to assist under him in the celebration of Divine Offices; for so was the direction of the Canon Law. . . . And, notwithstanding he was nominated by the Parishioners, he was appointed to the office by the Minister, as well according to

the Constitution (of Archbishop Boniface, 1243-1270) as by the custom of the Realm' (E. Gibson, 'Codex Juris Ecclesiastici Anglicani,' 1761, p. 214).

<sup>36</sup> Qu. 'and' or 'to be' omitted.

<sup>37</sup> Presumably the nails of the cross.

<sup>38</sup> A metaphor taken from animals fighting.

<sup>39</sup> Abided.



William Stevynson brother on to my lord of Peturburgh<sup>40</sup> seith that enery Constable warnyd wythin hys stread<sup>41</sup> euery man to be in the Fen in the mornyng vpon a payn and so dyuers of them was by estimacion to the nombre of xl persons abought the

<sup>a</sup> last past, and further the seid Wylliam seith that one Robert Toche stode vp emongyst them all and shewyd that my lord of Peturburgh wold take the Comen from them and dyd ouerley<sup>42</sup> them in the feld and fen and therfor he was fayne to sell hys shepe and desyryd to know how many wold take hys parte and ayde hym with mony and they that wold not ayde hym he wold complayn of them to the kyng but then the seid William seyth he was not ther hym self but John Taylour and Humfrey Taylour seith that all the wordes spokyn before by the seid William be trew and that they were present at that tyme wyth them in the Fenn.

Thys ys the seyinges of Rycharde Padman.

wordes.

The seid Rycharde seyth that the last day of Octobre last past he seid vnto one John New that my lord of Peturburgh was lord and kyng wythin hym self vnder the kyng and than the seid John New answeyrd and sayd that he was lord and churle within hym self.

The saying of Antony Wylkynson of Peturburgh mercer.

breche of  
peace.

The same Antony seith that Robert Alen John Sucklyng John Morton with many moo of the town (abought the Natyvyte of Seynt John the baptyst last past)<sup>33</sup> went in to the Fen callyd burgh Fen to fell fodder and whan they hadd fellyd ytt, the seid Antony cam in company of the seid Robert Alen John Morton and John Sucklyng homewardes att whiche tyme they comynyng<sup>43</sup> for carying of the seid fodder, and they seid yf my lord wold withstand them they wold prepare euery man a pyckfork or elles a clubb and also bowes and arowes to bet my lord and hys seruantes. And more ouer by cause they seid Antony wold not do as they dydd they seid he shuld have no comen and seid also thes wordes on to hym that he dyd hold of the

<sup>a</sup> A space is left here.

<sup>40</sup> Unless this means 'brother-in-law,' which by the usage of the time it may very well do, Kirton must have been the name taken by the abbet on profession. It is the name of three parishes in Lincolnshire and there is a Kirton in Netts. See p. 130, note 3, supra.

<sup>41</sup> 'Straid' is a dialectical form of stride (J. Wright, 'Engl. Dial. Dict.' 1904, s.v. Stride). Qu. 'stread' for 'stride' in the sense of 'walk' or, as we now say, 'beat.'

<sup>42</sup> 'To oversteek a pasture with cattle, &c.' (Murray, 'Engl. Dict.' s.v.).

<sup>43</sup> Communing.

lote <sup>44</sup> by cause he wold nott hold with them. And after all thys on Seynt Mathews day last past <sup>45</sup> too seruauntes of John Poweres mett with the seid Antony at Peturburgh town ende, where at that day is yerely a fayre kept and ther thrust the same Antony ouer the showys <sup>46</sup> in the myre and he seid Why do ye so and they answeyrd hym and bad hym amend yt and so they departyd and went home onto ther master and that they met hym agen the same day and stroke at hym one of them wyth a knyffe and then they were departyd and afterwarde they sought vpon hym at hys boothe with ij clubbys so that he durst not cum forth therof. And the same nyght the seid John Powre seid vnto the same Antony and yf he hadd byn ther he wold have thrust a dagger to hys hart.

The saying of Andrew Grene sworne

The seid Andrew Grene scith that abowt lammas last past <sup>47</sup> he cam in to the howse of Thomas Darker where as Satt Robert Toche Robert Alen and dyuers other the seid Robert Alen said vnto the same Andrew that it was shewyd bothe vnto hym and Robert Toche in the churche that the seid Andrew shuld cum amongyst them and kepe them Company to know ther myndes and so to shewe my lord of ther sayinges and wors than they shuld say and that John Powre shuld shew them so. Whiche wordes the said John Powre dyd reporte after the departyng of the same Andrew from the Company abovesaid. Whiche sayinges inflamyd many of the township wyth such Ire that they thought to have betyn the same Andrew after thys the same John Powre standyng in hys shoppe the seid Andrew Grene cam in the Company of Water Morton foreby the seid Shoppe. Whom the seid John Powre callyd vnto hym and pykyd a quarell to hym saying that he wold cutt of bothe hys earys and Callyd hym strong thefe and extorcyoner and cam forth of hys shoppe and wold have strykyn the same Andrew with the dager of the seid Watter Morton and <sup>48</sup> John Love hade not defendyd the same Andrew Grene.

The saying of John Tayller and Humfrey Tayller.

They said that on Fryday last past they harde one Thomas Wynwyck say that he shuld here John Sucklyng say that the yates of the abbey were shyt <sup>49</sup> all the same Fryday how be yt the same John sayd that vj or vij of them wold go to know my lordes mynde on the

<sup>44</sup> Nettle-tree (Murray, 'Engl. Dict.' s.v.).

<sup>45</sup> September 21, 1517.

<sup>46</sup> Shoes.

<sup>47</sup> August 1, 1517.

<sup>48</sup> Conditional = if.

<sup>49</sup> Shut.

morow and if they myght not cum in they wolde hew the yates a sondar.

The Saiyng of Sir <sup>24</sup> Richard Sparke clerk which wold nott be sworn but sayd he hard it of a Man which was nott brought afore vs.

<sup>50</sup> Robert edward wyll spende all hys harper <sup>51</sup> and harlottys <sup>52</sup> that he makys in a yer to the valuer of twenty markys <sup>53</sup> to helpe them with all.

Percyvall alys wyll performe that he promysyd.

Wyllyam rayner sayd yf they spede not well ther shall nother lorde ner monke loke owth of the gattys. <sup>54</sup>

Henry tanner seyth that he wyll not fayll them as long as he has a peny.

Crystofer alynson seyde that he wolde spende xx<sup>th</sup> nobyllys<sup>30</sup> and yf that wolde not serve he hadde bowe and arowys.

Rychard Pantun seyde and I haue xx<sup>th</sup> nobyllys<sup>30</sup> and a good byll. <sup>55</sup>

Ihon new Ihon skolys Ihon sokelyng water mortun Robert clerke robert throp sey they wyll do the best for them in worde and dede that they cane.

Wyllyam alyn wyll kyll and sley yf they spede not well.

Theys wordys they hadde the ij day of december at Ihon brymbull Howsse at ny<sup>3</sup>th <sup>56</sup> when they harde the letter redde that woas send them fro London.

<sup>50</sup> These depositions are in another hand.

<sup>51</sup> The name 'harper' was applied to various Irish coins current in the sixteenth and seventeenth centuries bearing the figure of a harp, especially the harp-shilling, worth 9d. of English money (Murray, 'Engl. Dict.' s.v.). This is an earlier use than any quoted by Murray.

<sup>52</sup> The word 'harlot' was a name given to the pointed boots made in the fourteenth century (Murray, s.v.). If this interpretation be correct, Robert Edward must have been a bootmaker who expressed himself as ready to sacrifice both his money and his

stock-in-trade.

<sup>53</sup> 13l. 6s. 8d.

<sup>54</sup> This sentence is struck out, and the marginal note is in the former hand.

<sup>55</sup> See p. 71, n. 21.

<sup>56</sup> A rare example of the survival of the Anglo-Saxon *ȝ*. 'We find "gh" in olden English often represented by *ȝ*. . . . The sound of this "gh" was originally that of the High Dutch "ch"' (Maetzner, 'An English Grammar,' translated by C. J. Grece, London, 1874, I. pt. i., § 1, p. 156). See also 'Select Cases in the Star Chamber,' 1902, p. 238.

Memorandum it was prouyd afor vs this man was not ther.



Sworn. Theyse be the deposicions of Rychard Burton<sup>57</sup> Deputye to sir Thomas Lovell<sup>58</sup> knyght and cheaf Steward to thabbott of peturburgh of alle hys maners and lordeshyppys.

Fyrst the seyd Rychard sayeth thatt att the leatt and court holdun att peturburgh the x<sup>th</sup> daye of October in the ix<sup>th</sup> yere of the Reygn of ovr souereygn lord kyng Henry the viij<sup>th</sup><sup>59</sup> the xij men that wer sworn of the greatt Inquest and chargyd to enquear of all blodsheddes and other offensys and trespassys and mysdemeanours doon within the seyd town of Peturburgh wer chargyd specyally emongyst all other to enquear of a fraye and a blodshedd made to John Holtt by John Powur of Peturburgh in the Countye of Northampton gentleman and playne Evydence gyvin to the seyd Inquest by the seyd John Holtt and they knowyng well that the sey(d) affraye and blodshedd was made for the singular affeccion thatt they bare to the seyd Powur wold nothyng fynde towching the same affrey and blodshedd and for as mych as the seyd John Holtt cowde haue nothyng fowndun in thatt Courtt for the correccion and punysyon of the seyd powur he made a byll of the trespas doon vnto hym by the seyd powur and putt ytt vpp to the Greatt Inquest of the Hundred of the Nease of burgh<sup>60</sup> holdun att Langdyke whych hath correccion of all other leates holdun within the seyd hundred for lack of dew mynystracion of Iustyce within the same.<sup>61</sup> Att which hundred holdun att Langdyke he was Indycetyd of trespas accordyng to ryght and good conseyence.

And the seyd Rychard seyth thatt he seyd and advysyd the bayly<sup>62</sup> for asmoche as the xij men thatt wer sworne the day and yere aboueseyd wold nott fynde the trowyth of suche matturres as the(y) were chargyd withall and good Evydence yevyn to theyme of the same thatt he shuld putt nor impanell noon of thoos persoons to be of the xij men to be of thys present Courtt.<sup>63</sup> And acordyng to hys advyse

<sup>57</sup> Sec A, p. 124, n. 10, supra.

<sup>58</sup> See A, p. 124, n. 11, supra.

<sup>59</sup> 1517.

<sup>60</sup> Now the Liberty or Soke of Nassa-burgh, comprising Peterborough and other parishes. 'Nease' suggests the Scottish and North English 'nese' or 'ness,' a headland. Longdyke or Longditch, where the Court of the Liberty was held, was in Upton, a hamlet on rising ground (J. Bridges, 'Northamptonshire,' ii. 508).

<sup>61</sup> The sheriff's tourn through the Hundreds had for its first object 'to see that the system of frankpledge was in proper working order' (see Fleta, ii. 2). 'Those Hundreds which had not fallen

into private hands were "in the King's hands." The sheriff seems usually to have let them at farm to bailiffs' (Pollock and Maitland, 'Hist. Eng. Law,' ii. 544-46). In this case the Liberty was in the hands of the Abbot.

<sup>62</sup> I.e. of the Abbot. The word bayly or bailiff was commonly applied to manorial bailiffs (ibid. 219).

<sup>63</sup> 'The free landowners of the Hundred are summoned and the first step is to cause twelve of them to swear that they will make presentment according to the articles' (F. W. Maitland, 'Select Pleas in Manorial Courts' [Selden Society, 1888], p. xxix).

he made a panell of other persoons and whan they wer callyd and ther namys redd, steppyd forth one Robert Edward and seyde Master bayly hear be moor meatar persoons to be put on the Inquest then thoo thatt ye appoynt to name and then namyd thoose persoons thatt wer on the Inquest in the yere before<sup>64</sup> whych woldnott fynde the trewyth as ys aboueseyd. And then I ansuerd and seyde thatt I wold take suche persoons as the baylyeff appoyntyd<sup>65</sup> and nott att hys appoyntment and so comawndyd hym to keapp sylence the whych he woldnott doo butt with many hygh wordes trobuld and dysturbyd all the Courtt. Then cam forth John powur and seyde to me Master Steward I haue greatt wrong doon to me byfoore yow in the Court thatt ye dyd hold att Langdyke, for I ame Indytyd thear for beatyng and wondyng of one John Holtt att Peturburgh and my neyghboures wolnott fynd me gylty therin and then I seyde ayen to hym thatt they dydd the moore wrong for suerly yow beatt hym and wondyd hym and euyll intreatyd hym and for asmych as the xij men of Peturburgh woldnott fynd the trewyth ayenst yow I thynck they be in greatt daunger wherfor I advysyd hym to be content and speake no more in thatt mattur. And thatt nott withstandyng he seyde opunly thatt he was wrongfully intreatyd and soo made opun exclamacion to the dysturbaunce of all the Courtt.

And when thatt thys bysnes was doon I chargyd xij suche persoons as wer appoyntyd and Impanellyd to me by the baylyeff and alsoo all Cunstabulles and other offyceres and Sware theyme and gaue theyme ther Charge. And thatt doon the seyde Inquest with Constabulles and other offyceres cam in agen to me with ther presentmentes and desyeryd me to appoynt new Constabulles<sup>66</sup> dosynares<sup>67</sup> and other officeres and then I appoyntyd Robert Baker a good and an honest man to be Constable in Hyghgate Thomas Stanley Constable of the markyttsted.<sup>68</sup> And then styrtt forth John powur Water Baker Petur Edward Robert Toche Robert Edward Robert Alen Rychard Panton John Morton Wyllyam Dandlyn and xx<sup>ti</sup> moo att the leest the whyche seyde to me ye shall neythur make

<sup>64</sup> Probably the manorial year was from Michaelmas to Michaelmas, as in Rogers, 'Hist. Ag. and Pr.' All these occurrences appear to belong to the months between June and December 1517.

<sup>65</sup> According to Pollock and Maitland ('Hist. Engl. Law,' i. 515), the Bailiff was judge in the Hundred Court when deputed by the Sheriff, but when the Hundred Courts are in private hands 'the Lord's steward presides.' In this case, the Bailiff appears to have acted as clerk of the Court, in

swearing in the jurors &c., the deputy steward being judge. Cp. also p. 211, n. 14, *infra*.

<sup>66</sup> See A, p. 124, n. 13.

<sup>67</sup> See A, p. 123, n. 6.

<sup>68</sup> Market-place. In the thirteenth century 'large market-places were opened up in Bury, Peterborough, Cambridge, and Boston' (W. Cunningham, 'Growth of English Industry and Commerce, Early and Middle Ages,' 4th ed. 1905, p. 246).

nor appoynt noo Cunstable hear nor noon othur hear butt suche as the xij men lyst to appoynt and chease. And ouer thatt they with an hygh exclamacion sayed thatt noon suche of towne as wer belongyng to the abbey shuld beare any offyce in Peturburgh and then I had as myche work as I cowde by any meanys to pacyffye theyme whych was doon with greatt and Ieopardowse dyffycultee, and then I seyde to theyme Neyghbures and freandes I lett yow wytt<sup>69</sup> thatt my Synguler good Master sir Thomas Lovell ys hygh steward of thys lordshypp and all othur my lordes of Peturburgh and I am butt hys deputye and of yowr demeanour I wyll certyffye hym and when I know hys pleasure I wull demean me theraftur. And then I demawndyd of the xij men whatt they hadd Fowndun after the deth of Johan late the wyfe of John powur whyche was parcell of ther charge to enquear of and then Robert Toche one of the xij men seyde thatt he knew of trowyth thatt one Wyllyam Man fathur to the seyde Johan was seasyd of the landes and tenementes (whyche the seyde Johan late had) in hys demean as of fee, and so beyng seasyd of the same landes and tenementes made hys wyll modo sequenti Fyrst I wyll thatt Johan my doughtour haue all my landes and tenementes in Peturburgh to hyr and to the heyres of her body laffully begottyn<sup>70</sup> and for defalte of suche Issue the Remayndur therof to the iij Gyldes<sup>71</sup> of the paryssh Church of peturburgh afforseyd. By vertew of whych wyll the seyde Johan hadd and perceyvyd<sup>72</sup> the Issues and profyttes of the sayd landes and tenementes duryng her lyef and dyed withoute Issue. And then the seyde Robert Tooche and other the xij men desyeryd to take a Respectt<sup>73</sup> of the same matter tyll viij<sup>te</sup> of the clock on the next morow folowyng and then att the seyde houre they appearyd byfoore me accordyngly and made me thys answer thatt they had been with John Powur whyche advysyd them to make noo presentment of the seyde landes, and tooke from theyme the byll whyche was drawn by the Instruccion of the seyde Robert and othur hys Fealowys concernyng the Inqueary to be made of the seyde landes and cancelled the same byll and woldnott suffer theym to make presentment therof accordyng to the trowyth, contrary to the kynges lawes and to the damage of the seyde abbot of Peturburgh for soo

<sup>69</sup> Know.

<sup>70</sup> The rule of Common Law at this time was that land could not be the subject of devise. But 'in some boroughs by the custome, a man may devise by his testament his lands and tenements which he hath in fee simple within the same borough at the time of his death' (Littleton, ii. 10, § 167 ;

Coke, 1 Inst. 111, a, b).

<sup>71</sup> I have not been able to identify these gilds.

<sup>72</sup> Received.

<sup>73</sup> 'Respite, respectus is used for delay, forbearance or continuance of time.—Glanville, lib. 12, cap. 9' (Cowel, 'Interpreter,' s.v. Respite).



myche as the seyd landes be holdun of the seyd abbott of Peturburgh, and to the disturbaunce and lett<sup>74</sup> of makynge of the offyceres of the seyd Town and for the keapyng and conseruacion of the peace.

1518

BRYSTOWE, SHERIFF OF *v.* MAYOR &c. OF.

A.<sup>1</sup> To the most Reuerende Fader in god Thomas Lorde Cardynall archebysshopp of yorke and Chaunceler of Englonde.<sup>2</sup>

IN moste Humble Wyse Shewith Vnto your gracious Lordshipp your daily Oratour William dale one of the Shreffes of the Towne of Brystowe,<sup>3</sup> That Where affor this tyme the Maire and aldermen of the saied Towne have bene and yet be seasid in the Right of the

<sup>74</sup> Hindrance.

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 78. A copy of this document on paper is in vol. vi. No. 82. *Introd.* p. cii.

<sup>2</sup> Cardinal Wolsey, see p. 118, n. 2.

<sup>3</sup> There is considerable difficulty in assigning a date to this petition owing to the conflict between the two lists of municipal officers published in the Bristol and Gloucestershire Archaeological Society's 'Transactions,' xix. pp. 130-32. In the first of these, the MS. in the Bristol Museum, William Dale, Poticarie, was sheriff in 1519-20, when John Edwardes was mayor, while John Williams was mayor in 1520-21, the municipal officers coming in on September 29. But these assignments of dates and persons are certainly incorrect. According to W. Barrett, the historian of Bristol, 'Hist. of Bristol' (1789), p. 123, who cites the Great White Book, f. 53, 'the Sheriff Dale, 11th Henry 8, disputed with the Mayor & aldermen about serving that office, as his yearly charges exceeded the revenues of his office. But on 4 October, 11 Henry 8, John Williams being mayor,' the ordinances of Wolsey settling this dispute were received. As Wolsey was not at Bristol, it is impossible that this complicated dispute, submitted to him by Dale's petition after his election as sheriff on September 15, 1519, and followed by the pleadings and statements of accounts on both sides, could have been adjudicated upon within a fortnight. But the statement is precise that Dale's action began in 11 Hen. 8, i.e. between April 22, 1519, and April 21, 1520.

It follows that Dale must have been elected sheriff on September 15, 1518, in which case, when Wolsey's ordinances were received on October 4, 11 Hen. 8 (1519), he had been five days out of office, the mayor and sheriffs being sworn in on September 29. The other of the two lists mentioned, called the 'Fox MS.,' gives William Deal, apothecary, as sheriff in 1517-18, which for the reasons stated must also be erroneous. Neither list assigns John Williams's mayoralty to 1519-20, which must have been its date if reliance is to be placed on the Great White Book. According to the first list, it was 1520-21; according to the second, 1518-19. These inferences are confirmed by a list printed in Barrett, p. 683, which gives for 1518 John Edwards, mayor, John Hull, William Dale, sheriffs, and for 1519 John Williams, mayor. The assignment of 11 Henry 8 as the year in which this dispute occurred is confirmed by L. and P. Hen. 8, iii. 457, a paper giving the yearly expenses of the sheriffs of Bristol, dated by the learned editor, Mr. Brewer, September 1519. Although William Dale is described in both lists as an apothecary, he speaks of himself in his 'Declaracion' (G, p. 162, *infra*) as of 'youth and yong begynnynge toward his Increse in Merchandise.' He is probably, therefore, the William Dale, merchant of Bristol, who on June 14, 1516, obtained a licence to import twenty tuns of Gascon wine (L. and P. Hen. 8, ii. 2049). Presumably he was an importer of wine and drugs. He never became mayor.

Comynalte<sup>4</sup> of the same Towne of and in llandes and tenementes apperteigning to the Chamber<sup>5</sup> of the said Towne amountyng and extendyng to the yerly value of c and xl *li.* or there aboutes and of other Reuenues and proffittes whiche the said Maire and aldermen in the Right of the same Comynalte yerly perceyve amounting to great Somes of money for the Mayntenaunce and vpholdyng of the Mairealtie and payment of the Fees for other officers of the same Towne as Recorder,<sup>6</sup> Towne Clerke, Swordberer,<sup>7</sup> attorney and other, Soo it is gracious lorde that the Maier and aldermen nowe of late have sett greater charges exaccions and Imposicions vpon the Shreffes<sup>8</sup> of the saide Towne than they be able to bere or of Ryght ought to be chargied with compellyng the same Shreffes yerly to bere and paye towards the Charges of the said Maire and his said officers great sommes of money extendyng yerly to the somme of ciiij<sup>xx</sup> *li.* That is to say to the Maire yerly towards his house xx *li.* and viij *li.* for xij yardes of Scarlett,<sup>9</sup> vj *li.* xiijs<sup>s</sup> iiij<sup>d</sup> for a Furre, for wyne iij *li.* vjs<sup>s</sup> viij<sup>d</sup>, for Mynstrells iij *li.* vjs<sup>s</sup> viij<sup>d</sup>, and for two Torches<sup>10</sup> xiijs<sup>s</sup> iiij<sup>d</sup> and For the Comysson of the Staple for the Maires Court<sup>11</sup> xxij<sup>s</sup> vj<sup>d</sup> Summa xliij *li.* ii<sup>s</sup> vj<sup>d</sup> and the Residue of the saied somme of c iiij<sup>xx</sup>

<sup>4</sup> The Charter of Henry 7 (1499) was to the mayor and commonalty (J. Latimer, 'Bristol Charters' [1909], p. 129).

<sup>5</sup> In the 'History of London' by W. Maitland, continued by J. Entick (1772), ii. 1206, under the heading 'The Chamberlain of London' it is said: 'His office may be termed a Publick Treasury, collecting the Customs, Monies and yearly Revenues, and all other Payments belonging to the Corporation of the City.' Bristol, being a daughter-town of London, the constitution of the Chamber there was probably similar. See on 'The Affiliation of Medieval Boroughs' in C. Gross, 'The Gild Merchant' (1890), i. 242, &c. In the Charter of Henry 7 in 1499 it was expressly ordained that a chamberlain should be appointed by the Mayor and Common Council who was to exercise all the functions of the Chamberlain of London, disbursing money, keeping charters and bonds, and rendering accounts yearly' (J. Latimer, p. 129). As a matter of fact, however, the chamberlain had been a town officer at least since the beginning of the fourteenth century (ib. p. 134).

<sup>6</sup> One of the six aldermen who constituted the governing body of the town under the Charter of 1499, ib.

<sup>7</sup> A sign of capital criminal jurisdiction. Cp. p. 151, n. 3. By the Charter of 1373, which created Bristol a county, the mayor was authorized to hang all felons, whether

inhabitants or strangers (ib. p. 78). See further C, p. 154, n. 26, *infra*.

<sup>8</sup> Under the Charter of 1499 the election of a single sheriff was discontinued, and two sheriffs took the place of the former two bailiffs (J. Latimer, 'Charters,' p. 131; Bristol and Gloucestershire Arch. Soc. 'Trans.' xix. 129).

<sup>9</sup> This works out at a mark (13s. 4d.) a yard. In 1485 'scarlet' for the royal wardrobe, such doubtless as was distributed among officials as 'livery,' cost various sums from 6s. 8d. to 14s. a yard (W. Campbell, 'Materials for the History of Henry 7' [1873-77], ii. 3, 4). Prices had not tended to rise in 1519, and the Mayor of Bristol, therefore, exacted a very fine quality. The other items of expense are the same as printed in the 'Little Red Book,' i. 10 (temp. Edward 4). Cf. also Ricart's 'Kalendar,' p. 81. By the Act 4 Ed. 4, c. 1 (1465), the statutory breadth of a broad cloth was fixed at 7 quarters.

<sup>10</sup> Presumably torch-bearers; a not uncommon use of the word, as 'links' for link-bearers.

<sup>11</sup> The Staple was the name given to the company of merchants enjoying the monopoly of exporting the staple or principal raw produce of the country, viz. wool, woollfells, leather, tin, and lead ('Ordinance of the Staples,' 27 Ed. 3, st. 2, c. 1 [1354]; 38 Ed. 3, st. 1, c. 7 (1364); 43 Ed. 3, c. 1 [1369]. These monopolies were



the same Shreves ar inforeyd and compelled by the said Maire and aldermen to paye yerly vnto the officers of the said Towne by particuler somes lyke as by a Cedula hereonto annexed particularly doth appere ouer and above the Kynges Fee Ferme<sup>12</sup> of the same towne whiche amountith and extendith yerly to the somme of elx *li.* whiche the said Shreffes for the tyme beyng yerly <sup>a</sup> paye and con-

<sup>a</sup> This word omitted from the paper copy.

created for fiscal purposes, the wool, &c., being weighed and the customs collected at the staple towns—that is, the towns reserved for the exportation of staple goods. The mayor of the staple, jointly with the customers, was answerable to the Crown for the quantities shipped and the duties received. Of these towns, eleven in number, Bristol was made one by the statute of 1353. But when in 1465 Calais was made the sole staple town for distribution on the Continent (4 Ed. 4, c. 2), the number of staple towns in England was reduced to ten, and Bristol, as well as Exeter, ceased to be among them (4 Ed. 4, c. 3). This may, perhaps, account for the fact that, whereas in other staple towns, the mayor of the staple co-existed with the mayor of the town, at Bristol the mayor of the town, at any rate, in 1519, was also mayor of the staple (cf. R. Ricart, 'Kalendar' [Camd. Soc. 1872], p. 76). Although Bristol had ceased to be a staple town for export, the mention here of the commission of the staple for the Mayor's Court shows that the Court of the Mayor of the Staple continued. This court was instituted by 27 Ed. 3, st. 2, c. 21 (1354), for the convenience of commercial litigants. It was 'guided by the law-merchant, which is the law of the Staple' (E. Coke, 4 Inst. 237). Before the mayor of the staple the statute-staple was entered into, a security for debts 'originally permitted only among traders for the benefit of commerce, whereby the lands of the debtor are conveyed to the creditor, till out of the rents and profits of them his debt may be satisfied' (W. Blackstone, 'Commentaries' [ed. 1767], p. 160). The 'statute merchant,' entered into pursuant to the statute 13 Ed. 1, De Mercatoribus (1285), before the mayor of the staple, was a similar security. The benefit of this system was made general by the 23 Hen. 8, c. 6 (1532), in the form of a recognisance in the nature of a statute-staple (ib.). The mayor of Bristol was admitted on Michaelmas Day, but as mayor of the staple not till three days later, an evidence that the offices had formerly been held, as elsewhere, by different persons (Ricart, pp. 71, 75).

The electoral body in the case of the mayor of the staple consisted of the two constables of the staple and the commonalty of merchants of the staple ('The Little Red Book of Bristol,' edited by F. B. Bickley [Bristol, 1900], i. 178). An election was formally held, upon the occasion of the death of the mayor of the town in 1436, and the choice, according to what seems to have been the practice, fell upon the new mayor, ib.; see also an example of the custom on p. 260, n. 17, *infra*, in the case of Nicholas Thorne. A Treatise on the Law Merchant as administered in the Court of the Staple at Bristol is printed in 'The Little Red Book,' i. 57. The sum of 22s. 6d. here charged was allowed by the ordinance of Cardinal Wolsey of October 11, 1519, which was the outcome of this petition (see Barrett, p. 124).

<sup>12</sup> The 'Firma Burgi,' the ferm or farm of the borough, was a composition paid for the king's dues. Its grant to the burgesses themselves was a fruitful source of revenue. 'The privileges of self-government and self-assessment, exemption from the interference of the Sheriffs and their arbitrary exactions, the confirmation of guilds, the securing of corporate property, the free election of magistrates, and the maintenance of ancient customs . . . are all of them matters of grant' (W. Stubbs, 'Constitutional Hist. of England' [3rd ed. 1880], vol. i. ch. xiii. p. 623); cf. T. Madox, 'Hist. of the Exchequer' (1711), p. 226. 'King Edward 3 in the seven and fortieth year of his Reign made the Town of Bristoll a County of itself, separate from the Counties of Gloucester and Somerset, and granted to the Townsmen several Franchises; Provided they do answer to the king yearly for his Fermes and other Dues' (id. 'Firma Burgi' [1726], p. 250). By fee-ferm is meant 'perpetual Ferm or Rent' (ib. p. 3). But the rent demanded by successive kings varied, probably in accordance with political exigencies. The fine paid for Edward 3's charter of 1373 was 400*l.* (J. Latimer, 'Bristol Charters,' p. 77).



tent vnto the Kynges highnes,<sup>13</sup> And for the payment of whiche Fee Ferme the same Shreffes have not eny thyng to make levy and Reyse the same but only of the Tolles of the same Towne and proffittes for stondyng of<sup>b</sup> boothes<sup>c</sup> in the saied Towne at the tyme of seynt James Feire<sup>14</sup> there whiche is but Casuall and bath not at eny yere amounted to the somme of the same Fee ferme And ouer and besides the said fee ferme, the said Shreffes paye yerly xiiij li. xvj<sup>s</sup> viij<sup>d</sup> for there profers<sup>d</sup> in the kynges exchequer and discharge of there Acompte<sup>15</sup> And also ouer and besides that the same Shreffes for the tyme beyng paye yerly xlv li. vnto there officers in the same Towne vnder them, And also be charged with other great Costes and Charges whiche the same Shreffes for the tyme beyng beere and susteine in kepyng and maynteyneng of there howseholdes and other necessary charges apperteigneng onto there said offices So that the same Shreffes for the tyme beyng Albeit they war discharged of the somes afforsaid payed onto the Maire, And the Fees of thofficers conteigned in the Cedula afforsaide ar clerely charged of there owne propre goodes to the somme of lx li.<sup>e</sup> in Redy money by them payed ouer and besides the said Fee Ferme and ouer and besydes the Charges of there howseholds and other necessary Charges to them apperteigneng duryng the tyme of there said offices by whiche Intollerable charges exaccions and vnresonable Imposicons the marchauntes of the said Towne chosen and elected to the said office of Shrevaltie by occasion of the premisses have bene so impouerysshed and daily be, that after the said yere of Shrevalty is<sup>f</sup> determyned,

<sup>b</sup> 'In' in paper copy.

<sup>c</sup> Three or four words erased.

<sup>d</sup> 'proffres' in paper copy.

<sup>e</sup> So also the paper copy, in the margin

of which, however, is written in another ink, but in a very similar hand, 'cc li. of their proper goodes.'

<sup>f</sup> Omitted from paper copy.

<sup>13</sup> 'By the Ancient and settled Course of the Exchequer, the Sherifs of Towns, the Bailifs, or other Officers who accounted to the King for the Ferme of their Town or other Duties, were answerable to the King in their Own Persons, lands and chatells upon their Accompts, that is to say, for not rendring an Accompt, or for Defaults and Contempts in Accompting. . . . If therefore Townsmen did not render their Account, or did not pay their Ferme or other Cleer Debt to the King, it was the usual way to take the Town or Liberty into the King's Hand. But that did not hinder the King's Officers from taking remedy against Particular Townsmen, if it was found needful' (Madox, 'Firma Burgi,' pp. 161, 164).

<sup>14</sup> Among the documents of 'The Little

Red Book of Bristol,' i. 106, is a record of 'Placita quo Warranto,' heard at Bristol on April 14, 1287. A claim was put in by the abbot of Tewkesbury, inter alia, of a fair at Bristol, to last through the whole week of Pentecost, in right of his cell at the Church of St. James, by a grant of King Henry 2. The claim was allowed.

<sup>15</sup> 'Proffer, profre, profer,' &c. 'A provisional payment of estimated dues into the Exchequer by a sheriff or other officer at certain appointed times' (J. A. H. Murray, 'Engl. Dict.'). There were two sessions of the Exchequer, at Easter and Michaelmas respectively. At Easter the sheriff would make his 'profer,' for which he would receive a tally. This tally he would produce when summoned to appear at Michaelmas and pay the balance of the

the more parte of them have not bene able to exercyse there Feate of Marchaundyse in lyke wyse as they did before, but have euer after lyved in poverte and Ruyn wherby the kynges Customes there have not only ben mynysshed<sup>16</sup> but also thenhabitauntes of the same Towne beyng as Cloythers wevers dyers toockers<sup>17</sup> and other sondry Crafty men dayly lak work and runne in Idylnes<sup>18</sup> And the towne by Reason of the same broughte vnto great desolacion and about viij c howseholdes<sup>9</sup> in the same Towne desolate vacante and decayed,<sup>19</sup> to the vtter decay and distruccion of the said Towne if Remedy by your gracious lordship in this behalffe be not prouyded where of thought<sup>20</sup> the Maire and aldermen for said have landes assigned to the Chamber of the same Towne as is afforsaid whereof the proffittes ar yerly taken in the same Chamber where with the forsaid yerly Fees in the said Cedula conteyned of Right ought to be borne and paid, And the saeid Shreffes of payment thereof to be dyscharged,

\* In margin of paper copy 'deey 16 c howsis.'

ferm due in cash. He would then receive his discharge (see Hubert Hall, 'Antiquities of the Exchequer' [1891], pp. 151-153). The component items of these charges, which amounted to more than eight per cent. of the ferm, are set out in E, p. 157. For the items of the fees paid by a sheriff of Bristol to the various officers of the Exchequer, apparently in the fifteenth century, amounting to 7*l.* 18*s.* 11*d.*, see 'Little Red Book,' i. 12, 13. Down to the year 1500 there was only one sheriff, but two bailiffs ('Trans.' Bristol and Glouc. Archæological Society [1894-95], xix. p. 129).

<sup>16</sup> The table in G. Schanz, 'Englische Handelspolitik' (1881), ii. 50, shews that the customs receipts at Bristol were at this time declining. In 1517-18 they had fallen from 1216*l.* 12*s.* 3½*d.* for the previous year to 938*l.* 6*s.* 1*d.*; but in 1518-19, during the shrievalty of this complainant, they recovered to 1254*l.* 17*s.* 8*d.*

<sup>17</sup> Tuckers or fullers.

<sup>18</sup> The exports of cloth, all undyed, from Bristol, had fallen in 1516-17 from 3248 to 2501 pieces, and did not regain the higher figure till 1519-20 (Schanz, *ib.* p. 89). The receipts are from Michaelmas to Michaelmas, as also was the sheriffs' term of office. There had, therefore, been a serious depression during the year prior to this petition.

<sup>19</sup> Medieval statistics are little to be trusted, as may be inferred from the above marginal note. This estimate may be suspected of exaggeration. In the middle of the fifteenth century the Bristol wool trade had been seriously injured by the

loss of the great market of Bordeaux. The town had also suffered by the diversion of the cloth trade with Scandinavia to the London Merchant Adventurers (A. S. Green, 'Town Life in the Fifteenth Century' [1894], ii. 91). There were causes, especially the tyranny of the gilds and the vexatious impositions illustrated by this complaint, tending to a general decay of the ancient industrial centres. For references to this subject see C. Gross, 'The Gild Merchant' (2 vols. 1890), i. 51, n. 5. It may be remarked, however, that the case of Bristol can scarcely have been so serious as that of many other towns, inasmuch as it does not appear to have been exempted by Parliament from taxation, nor to have had its fee-ferm remitted. Its great merchants flourished during the fifteenth century, and the trade with the Levant brought it much wealth (W. Hunt, 'Bristol' ['Historic Towns'], p. 94). It was not among the ruinous towns mentioned in the Act for their repair of 1536 (27 Hen. 8, c. 1). Nevertheless, on September 10, 1538, the mayor, William Chester, wrote to Cromwell, 'Many tenements in the Town are fallen into decay for want of timber and stones, and the quay and town walls are in like ruin, which we purpose to repair, & also to make a wharf. We beg, therefore, for a grant of the said house of (Grey) Friars and ground' (L. and P. Hen. 8, xiii. ii. 322). Two years later Bristol is to be found among the towns enumerated by Parliament as decayed (32 Hen. 8, c. 18).

<sup>20</sup> Truth.

And not withstandyng that your said orators have aduertysed John Edwardes now Maire of the same Towne<sup>21</sup> and other aldermen of the same Towne<sup>h</sup> to hym associat of the premissis, And made humble Peticion and sute vnto them to have Reformation acordyngly yett they that to doe have Refused, And the said Proffittes of the said londes in the said Chamber beyng to there owne vse without eny Cause resonable have hetherto kept and conuerted. In Consideracion whereof it may please your gracious lordship by the kynges writt of<sup>i</sup> Sub pena to calle affor your grace the said Maire to aunswer to the premisses And to shew why that the saied Maire with the saied issues and proffittes belongyng to the sayd Chamber shulde not mayntayne his said office of Mairealtie and also beere and paye the Fees and Charges of thofficers conteigned in the cedula afforsaid, So that those that nowe be Shreves, and such other as hereafter shalbe Shreves of the same Towne be no Further charged but only with the Kynges Fee Ferme, and other charges belonging to the said office of Shrevealtie only, And the Maire and euery other that herafter shalbe Maire of the said Towne for the tyme beyng to bere the charges of the<sup>j</sup> Mairealtie and the forsaid officers vnder them Also to be paied of the proffites groweng and cummeng to the saied Chamber of the londes forsaid, acordyng to Reason and good conscience, And for the wele and Reformation of the said Towne, And Fynally to be ordred in alle the premisses in suche wyse as to your gracious lordship shalbe thought to stonde with the preseruacion and good contynuaunce vpholdinge and Maynteyneng of the said towne, Ryght and good conscience. And your said oratours shall daily pray to god for the preseruacion of your gracious lordship<sup>k</sup> long to Indure.

*(Indorsed)*

Scilicet Coram domino Rege & consilio suo in mense Pasche<sup>22</sup>  
proxime future.

<sup>h</sup> About six words erased.

<sup>i</sup> Omitted from paper copy.

<sup>j</sup> 'their' in paper copy.

<sup>k</sup> Paper copy on f. 82 ends here.

<sup>21</sup> See p. 142, n. 3, supra. According to the first list there mentioned, John Edwardes was mayor in 1519-20, according to the second, in 1517-18. From this document I infer that the year was neither of these, but 1518-19. Both lists give Dale as

sheriff during Edwardes's mayoralty.

<sup>22</sup> In 1519 Easter Day fell on April 24 (J. J. Bond, 'Handy Book for Verifying Dates' [4th ed. 1889], p. 395). This date gives over five months for the conduct of the litigation.



B.<sup>1</sup> Thaunswer of the Maire of Bristowe to the bill of complaynt of William Dale Shiref of the said towne.

The said Maire saieth that the said bille is vncerteyn and insufficient to be aunswerd vnto<sup>2</sup> Wherof he praieth allowaunce and thaduauntage therof to hym saved for declaracion of trouthe in the premisses and further aunswer he saith that the maire and Comynalty of the said towne of Bristowe haue libertie auctoritee & power yerely to elect a maire aldermen Shireffes bailiffes and oder officers of the said towne And also the maire aldermen and counseill of the said towne haue auctoritee & power to make ordynaunces and rules for the good pollitique gouernaunce of the said towne And if enye of the said towne breke eny rule or ordynaunce made by the said Maire & counsell<sup>a</sup> or be disobedient and wolle not agree to thordynaunce of the said Maire and counseill or confeder procure or maynteyn ayenst the said Maire and counseill or sett debate betwene the said Maire and counseill and the comynnaltie of the said towne for enye eleccion of Maire or oder officers of the same towne And that thenne the Maire and ij suche of thaldremen of the same towne as the Maire for the tyme being wolle name haue full power and auctoritee to chastise and punyssh euey suche offender after the qualitee and quantite of his trespas and offence after the auncient vsage and custume of the said towne<sup>3</sup> And further the said Maire saith that at the tyme that enye person of the seide<sup>b</sup> towne is called and chosen to be Burgesse of the same towne and also when enye burges is called to be of the counseill of the said towne<sup>4</sup> they ought to submytte theymsel and to accept the same and to be sworne vpon the holy Euangelies for to supporte and maynteyne the fraunchese liberties ordynaunces and laudable custumes and vsages of the said

<sup>a</sup> This word begins a line, and in the margin slightly above it are written three words in a different but contemporary hand. The first word is hidden by the binding, only the terminal flourishes being

visible. The other two words are 'condere leges,' the whole being apparently a lawyer's note of the nature of the claim in the adjoining text.

<sup>b</sup> Interlined.

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 79.

<sup>2</sup> On these demurrers, see 'Select Cases in the Star Chamber' (1902), pp. xxix-xxx.

<sup>3</sup> By the Charter of Henry 7, dated December 17, 1499, 'Cognizance of all pleas whatsoever was to be vested in the Mayor, who, with two aldermen, was to hear and adjudge, and their decisions were to be final' (J. Latimer, 'Bristol Charters,' p. 131).

<sup>4</sup> According to William de Colford, recorder of Bristol in 1344, the council of

48 was 'elected with the common consent as advisers and assessors to the Mayor' ('Little Red Book,' i. 25). By the Great Charter of 1373 it was to be chosen by the mayor and sheriff 'with the assent of the Commonalty.' The Charter of 1499 restricted the selection to the 'Mayor and two Aldermen,' but continued the proviso of 'the consent of the commonalty' (W. Barrett, 'Hist. of Bristol' [1789], p. 682). Under the charter of Henry 7 the council was reduced from 48 to 40.

towne And also to be obedient to the Maire of the said towne and ministres of the same in all causes reasonable and to bere lotte and scotte<sup>5</sup> and all other charges and contribucions within the said towne, And the said Maire further saith that by the custume and vsage of the same towne the bailiffes of the said towne while bailiffes were and not Shireffes and syns that tyme whenne the said bailiffes were made shireffes and bailiffes<sup>6</sup> all \* e<sup>c</sup> haue always paide and borne aswell the fee ferme of the said towne as the fees of the Maire and oder officers of the said towne and oder charges of olde tyme accustomed, for and toward the supportacion and payement of whiche charges the said bailiffes while they were bailiffes and not shireffes hadde certeyne mesuages and landes in the said towne, specified in the said bill among diuerse other proffittes and casualties whiche mesuages and londes while they were in the handes of the said bailiffes for the tyme being felle in gret Ruyne and decay for lak of reparacions by negligence of the bailiffes for the tyme being, Insomoch that where the said mesuages and londes hadde bene of the yerely value of lxxx li. or thereabout by reason of the decay and ruyne aforsaid they were after that not of the value of l li., Wherefore by the good discrecion of the Maire and comen counseill of the said towne for the tyme being it was considered that if the said mesuages and landes shulde still contynne in the handes of the bailiffes for the tyme being it shulde growe in further ruyne and decay whiche shulde not onely be preiudiciall to the Maire and Comynalty of the said towne but also be hurtfull to suche bailiffes as after that tyme shulde be in the said towne. In consideracion wherof the said Maire Aldermen and comen counseill in tyme past by their hole assent and consent ordeyned and purueied that the said bailiffes shuld no lenger haue thoccupacion of the said landes and taking of thissues and proffites of the same, but that all the said mesuages and londes shuld be in the rule and gouernaunce of the Chamberleyne of the said towne for the tyme being whiche shulde yerely make accompt for thissues and proffittes of the same.<sup>7</sup> And where at the tyme of the said ordynaunces the said mesuages and landes were not of the clere yerely value of l li. to the said bailiffes, It was agreed and concluded

\* A peece torn out of the parchement.

<sup>5</sup> A phrase of obscure origin and meaning, but roughly equivalent to the modern 'rates and taxes.' It is probable that 'seot' means the money paid, and 'lot' the allotment or proportion assessed to the taxpayers (see C. Gross, 'The Gild Mer-

chant,' i. 53, 54).

<sup>6</sup> See A, p. 143, n. 8 supra.

<sup>7</sup> This shews that the Charter of 1499 adopted the existing practice. See A, p. 143, n. 5 supra.

that the said Maire & Comynalty and their successours oute of their Chambre shulde pay yerely to the said bailiffes and their successours for the tyme being lx *li.* in lieu and Stede of the same londes and tenementes that was no better to theym then l *li.* by yere, whiche some yerely euer syns the said ordenaunces the said bailiffes before they were shireffes and bailiffes and sith they were made shireffes haue perceived and yerely taken togider with all suche other custumes tolles and casuell profittes as they and their predecessors vsed to take in tyme past for payement of the said fee ferme and oder fees and charges beforerehersed, So that the said bailiffes and shireffes haue hadde euersyns the said ordenaunces more yerely profite oute of the said chamber then their predecessours hadde of the same meses and londes when it was in their handes and taken into the said chamber and commytted to the rule of the said Chambreleyn for the tyme being. And the said Maire saith that the morowe after the feast of the Exaltacion of the holy crosse last past<sup>s</sup> the said william Dale being burgesse of the said towne and sworne as is aforesaid was elected and chosen to be one of the Shireffes of the said towne for this present yere, whiche after the said eleccion of his malicious highe and presumptuous mynde did not onely contemptouslye departe oute of the said towne but also confedered with diverse oder evill disposed persons of the said towne to infrynge and breke the Auncient and laudable vsages custumes & orders of the said towne to the grete inquietyng trouble and vexacion of the said towne and to the perillous exsample of oder like offenders and contrary to his and their othes. Wherefore the said Maire humbly besecheth this noble corte that the same compleynaunt may be remytted to the said Maire and Aldermen by theym to be ordred according to their Auncient vsages ordenaunces, and the chartres of the kinges noble progenitours to the same towne before this tyme graunted. And also for the further violacion and disordryng of the ordenaunces vsages and auncient custumes of the said towne the said William and diuerse oder evill disposed persones of his Affinite confederatours with hym for to sette division in the same towne ben commyn vp to hym to maynteyn hym in his evill opynyon and sedicious purpose. Without that that the said mesuages and londes extend to the yerely value of cxl *li.*, or that the said Maire & Aldermen haue sette gretter charges exaccions or Imposicions vpon the said shireffes then of olde tyme haue vsed to be charged with, or that the said Maire and Aldermen haue compelled the said shireffes to pay enye more or gretter or

<sup>s</sup> September 15, 1519. The Feast of the Exaltation of the Holy Cross was September 14.



other sommes to the said Maire and officers of the said towne then they of olde tyme haue vsed to pay, or that the merchauntes of the said towne elect and chosen to the said office of Shirevalty in the said towne haue been vndone or enpouerysshed by enye intollerable charges, exaccions or Imposicions sette by the said Maire & Aldremen or otherwise by their meanes, or that the more parte of the merchauntes dwelling in the said towne that<sup>d</sup> haue bene elected and chosen into the said Rowme of shirevalty haue bene vndone so that they myght not vse the feat of merchaundise after they haue bene oute of the said office except it haue bene by their owne negligence, or that the kinges custume be mynysshed by enye suche occasion, or that by enye other suche occasions enye worke men lak worke or ronne in Idelnes, or that the said towne is by enye such meanes brought in decay or desolacion, And withoute that the said Maire and Aldremen haue taken enye proffittes that haue vsed to be to the said bailiffes and shireffes for the tyme being toward their said charges oder then the said londes & tenementes as is beforerehered And withoute that that enye thing in the said bill materiall and answerable is true oder thenne in this answer is allegged. All whiche matiers the said Maire is redy to prove as this courte wolde awarde and praieth that the said compleynaunt may be remytted to the Maire and aldremen to be ordred as is beforsaid, And also that he the same Maire may be dismyssed oute of this courte with his reasonable costes & damages for his wrongfull vexacion by hym susteyned in this behalf.

(Indorsed) Bristow.

C.<sup>1</sup> THE CHARGES borne by the Shreffis of the Towne of Bristoll for the mayres officers.<sup>2</sup>

IN PRIMIS to the Recorder of the said Towne for his pension x<sup>li</sup> tenne yarges of scarlett—<sup>3</sup>

vj<sup>li</sup> xiijs iiij<sup>d</sup> and a furre iij<sup>li</sup> Somme . . . xix<sup>li</sup> xiijs iiij<sup>d</sup>.

<sup>d</sup> Interlined.

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 80.

<sup>2</sup> The following list does not appear to be transcribed from the 'Little Red Book,' from which it slightly varies. For instance 'the Common Clerk' of that book is here the 'Towne Clerke.' The 'Little Red

Book's' list is, of course, anterior (see ib. p. 10). In Ricart's 'Kalendar' Ricart styles himself 'Towne Clerke of Bristowe' (p. 68), having been elected to that office in 1479.

<sup>3</sup> Note that only the Mayor and Recorder have scarlet. Cp. p. 143, n. 7.

- Item to the Towne Clerke for his pension iiij<sup>li</sup> his furre vj<sup>s</sup> viij<sup>d</sup> parchment wax and wyne—xx<sup>s</sup> ij lawe days vj<sup>s</sup> viij<sup>d</sup> his gowne vj brode yardes at vj of the yard xxxvi . . . . . vij<sup>li</sup> ix<sup>s</sup> iiij<sup>d</sup>.<sup>3</sup>
- Item to the Steward for his pension iiij<sup>li</sup> for his furre vj<sup>s</sup> viij<sup>d</sup> paper and parchment vj<sup>s</sup> viij<sup>d</sup> wyne ij<sup>s</sup> viij<sup>d</sup> his gowne of five brode yardes at vj of the yard xxx<sup>s</sup> . . . . . v<sup>li</sup> vj<sup>s</sup>.
- Item the towne is<sup>a</sup> Attourney for his pension iiij<sup>li</sup> his furre vj<sup>s</sup> viij<sup>d</sup> and a gowne of five brode yardes at vj<sup>s</sup> the yard xxx<sup>s</sup> . . . . . iiij<sup>li</sup> xvj<sup>s</sup> viij<sup>d</sup>.
- Item to the Swerdberer for his pension iiij<sup>li</sup> his furre vj<sup>s</sup> viij<sup>d</sup> his summer gowne xij<sup>s</sup> iiij<sup>d</sup> ij hattes xl<sup>s</sup> a gowne of vi brode yardes at vj<sup>s</sup> the yard xxxvj<sup>s</sup> . . . . . vij<sup>li</sup> xvj<sup>s</sup>.
- Item to Seynt George is<sup>a</sup> prest for his pension vj<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup> a gowne of v brode yardes at vj<sup>s</sup> the yard xxx<sup>s</sup> . . . . . vj<sup>li</sup> xvj<sup>s</sup> viij<sup>d</sup>.
- <sup>4</sup>Item to the Chamberlayn a gowne of five brode yardes . . . . . xxx<sup>s</sup>.
- Item to the Towne Clark is<sup>a</sup> Clarke a gowne of iiij brode yardes at iiij of the yard . . . . . xvj<sup>s</sup>.
- Item to the Steward is<sup>a</sup> Clarke a gowne of iiij brode yardes at iiij<sup>s</sup> the yard . . . . . xvj<sup>s</sup>.
- Item to the meyres iiij Sergeauntes<sup>5</sup> for iiij gownes xvij yardes at v of the yard . . . . . iiij<sup>li</sup> x<sup>s</sup>.
- Item to the waterbailly a gowne of iiij brode yardes and an half at v<sup>s</sup> . . . . . xxij<sup>s</sup> vj<sup>d</sup>.
- Item to the waytes of the Towne at Saynt George is<sup>a</sup> tide<sup>6</sup> vj<sup>s</sup> viij<sup>d</sup> at midsommer xx<sup>s</sup> at mighelmas iiij<sup>s</sup> and ij gownys conteynyng xij yardes at iiij<sup>s</sup> the yard xlvij<sup>s</sup> . . . . . iiij<sup>li</sup> xvij<sup>s</sup> viij<sup>d</sup>.
- Item for a gowne for the Clerke of the market of iiij brode yardes at iiij<sup>s</sup> the yard . . . . . xvj<sup>s</sup>.

<sup>a</sup> Sic.

<sup>3</sup> For the differences between the lists see Introduction, pp. cviii–cxviii.

<sup>4</sup> None of the following items is to be found either in the 'Little Red Book' or in Ricart's 'Kalendar'; and as those lists purport to set out the expenditure of the bailiffs, whose functions the sheriffs dis-

charged after 1499, it would follow that they represent the additions to the expenditure of the sheriffs since the reign of Edward 4, when Ricart's 'Kalendar' was compiled.

<sup>5</sup> See p. 115, n. 45.

<sup>6</sup> April 23.

Item for Spicers obite to the mayre vj <sup>s</sup> viij <sup>d</sup> to the Sheriffes iiij <sup>s</sup> to the Towne Clerke iiij <sup>s</sup> iiij <sup>d</sup> to the sergeantes xvj <sup>d</sup> to xx <sup>ti</sup> prestes vj <sup>s</sup> viij <sup>d</sup> to the fourde ordres of freres xiiij <sup>s</sup> . iiij <sup>d</sup> to the vicar of Seynt Nicolas for light iiij <sup>s</sup> the ryngyng of the bellys iiij <sup>s</sup> the bell man iiij <sup>d</sup> for bred to pore peple xxx <sup>s</sup> iiij <sup>d</sup> . . . . . iiij <sup>li</sup> xiiij <sup>s</sup> . <sup>7</sup>
Item to the Kepyng of Seynt Nicolas Clokke <sup>8</sup> . . . . . xxvj <sup>s</sup> viij <sup>d</sup> .
Item for ryngyng of the Common bell <sup>9</sup> on mighelmas day <sup>10</sup> . . . . . iiij <sup>s</sup> .
Item at mighelmas for xx queyres of paper for the Towne Clark and the Steward <sup>11</sup> . . . . . v <sup>s</sup> .
Item for ij bagges and iiij forelles <sup>12</sup> for the same . . . . . xvij <sup>d</sup> .
Item for vj torches at Seynt George is <sup>a</sup> tide xx <sup>s</sup> and drynkyng at the same fest v <sup>li</sup> . . . . . vj <sup>li</sup> . <sup>13</sup>
Item for the drynkyng at the Trynnye Chapell . . . . . xl <sup>s</sup> . <sup>14</sup>

<sup>7</sup> Spicer's obit was celebrated on the Feast of St. Petronilla (May 31). Richard Spicer, an eminent merchant of Bristol, elected a member of the common council of forty-eight in 1349 ('Little Red Book,' i. 21); mayor, 1353-54, 1354-55, 1360-61, 1371-72, 1374-75. Although his tenure of the mayoralty for 1360-61 and 1374-75 does not appear in either of the two calendars of municipal officers published in the Bristol and Gloucester Archæological 'Transactions,' xix. 115-17, yet it is attested by two legal documents printed in the 'Little Red Book' belonging to those dates. This does not necessarily prove the lists incorrect, since Spicer may have been chosen as an ad interim mayor upon the occasion of the deaths of the holders of the office. He founded a chantry for masses for the souls of himself and his wife Cecilia in the Church of St. Nicholas, since destroyed and rebuilt. For this he obtained a licence from the Crown, dated May 16, 44 Ed. 3 (1370), ('Little Red Book,' i. 215). His 'Composition' founding the chantry and regulating the expenses of his obit, or annual memorial service, is dated Easter Eve, 51 Ed. 3 (March 28, 1377) (ib. 221). For a comparison of the payments ordered under the composition with those paid in 1519 see Introduction, p. cxiv. The total expenses of the obit provided by the composition amounted to 2*l*. 17*s*. 6*d*.; the expenditure by the mayor and corporation, who were the trustees of the composition, at a date unnamed, probably in the fifteenth century, to 2*l*. 11*s*. 4*d*., with an additional 2*s*. 4*d*. 'extra testamentum' ('Little Red Book,' i. 202). The expenses in 1519 were

3*l*. 13*s*. Under Wolsey's ordinance set out on pp. 163-165 the allowance was 3*l*. 13*s*.

<sup>8</sup> So also in Wolsey's ordinance, from which it appears that this included the clerk's wages. In his account of the old Church of St. Nicholas, W. Barrett, the historian of Bristol, says (pp. 494-95): 'It was situated under the arched gateway called Nicholas-gate, where was a clock and over it a statue in stone of Henry 2nd. . . . The great clock bell was fixed in the steeple, with this inscription on it: "Georgius Campana Bristow ad voluntatem maior. et communit. removetur tempore Walteri Darby, maioris, A.D. 1369."' The earliest date at which I have found mention of a church clock is 1288, when one was set up in Westminster Abbey' ('Encycl. Brit.' sub Clock).

<sup>9</sup> The inscription on the great clock bell of St. Nicholas suggests that this was the 'common bell.'

<sup>10</sup> On the admission of the mayor and sheriffs to office. This sum of 4*s*. was allowed by Wolsey's ordinance.

<sup>11</sup> In addition to the allowances for paper and parchment entered above. In Wolsey's ordinance the same sum of 6*s*. 8*d*. is allowed for this with the next item.

<sup>12</sup> Cases or coverings. See J. A. H. Murray, 'Eng. Diet.' s.v. Forel.

<sup>13</sup> Under Wolsey's ordinance this was cut down to 2*l*.

<sup>14</sup> Under Wolsey's ordinance reduced to 13*s*. 4*d*. Apparently this was at the annual meeting of the Gild of the Holy Trinity and St. George in the chapel of the Hospital of the Trinity. See Barrett, p. 536.



Item the drynkyng at Cristmas for bothe the Shreffes by extymacion . . . . .	xiiij <sup>h</sup> vi <sup>s</sup> viij <sup>d</sup> . <sup>15</sup>
Item the drynkyng om Seynt Nicolas day . . . . .	v <sup>s</sup> . <sup>16</sup>
Item the wrestlyng at Seynt lawrance vj <sup>s</sup> viij <sup>d</sup> . <sup>17</sup> And peeres <sup>18</sup> with wyne xiiij <sup>s</sup> iiij <sup>d</sup> . . . . .	xx <sup>s</sup> .
Item the wrestlyng at Seynt Jamys tide . . . . .	vj <sup>s</sup> viij <sup>d</sup> . <sup>19</sup>
Item to Barewardes . . . . .	x <sup>s</sup> . <sup>20</sup>
Item to mynstrelles . . . . .	x <sup>s</sup> . <sup>21</sup>
Item to the messyngers of the exchequer . . . . .	xiiij <sup>s</sup> iiij <sup>d</sup> . <sup>22</sup>
Item for a Sermon at Seynt Augustynes <sup>23</sup> the wednysday in Ester weke . . . . .	vj <sup>s</sup> viij <sup>d</sup> .
Item to the iiij ordres of freres . . . . .	xxxij <sup>s</sup> . <sup>24</sup>
Item the charges of mydsomer wathe to bothe the Sheriffes by estymacion . . . . .	xx <sup>li</sup> . <sup>25</sup>
Item for ij Skabardes for the mair . . . . .	xxx <sup>s</sup> . <sup>26</sup>
Item to the knyghtes of the Shire for the parliament when tyme requyreth <sup>27</sup> . . . . .	x <sup>li</sup>

<sup>15</sup> This charge was disallowed altogether by Wolsey's ordinance.

<sup>16</sup> St. Nicholas's Day was December 6. This charge was reduced to 2s. under Wolsey's ordinance, where it is entered, 'At the drinking at the Tolzey at St. Nicholas day. 2s.' (Barrett, p. 124). 'The Tolsill, or Tolsey, otherwise the Counter, or Comptoir, was where the Mayor held his Court' (Ricart's 'Kalendar,' ed. L. T. Smith [1872], p. 52, n.).

<sup>17</sup> August 10. This item was disallowed in Wolsey's ordinance.

<sup>18</sup> Pears.

<sup>19</sup> July 25; disallowed by Wolsey's ordinance.

<sup>20</sup> Bearwards, who managed the bear-baiting; disallowed by Wolsey's ordinance.

<sup>21</sup> Disallowed by Wolsey's ordinance.

<sup>22</sup> Reduced to 4s. by Wolsey's ordinance. These were fees paid to the messengers, or pursuivants, who summoned the sheriffs to attend the Easter and Michaelmas Exchequers. See Hubert Hall, 'Antiquities of the Exchequer' (1891), p. 149.

<sup>23</sup> Founded by the abbots of the adjacent monastery of St. Augustine as a chapel for the inhabitants; rebuilt in 1480 (Barrett, p. 405). This item was disallowed by Wolsey's ordinance.

<sup>24</sup> Allowed by Wolsey's ordinance. The four orders were the Franciscans, Dominicans, Carmelites, and Augustinians.

<sup>25</sup> This large expenditure was allowed by Wolsey. The custom of the Midsummer Watch was borrowed from London. The 'Marching Watch,' as it was called, was in

London a procession of the City Trained Bands, &c., in arms and uniforms, to the number of about two thousand, escorted by the parish constables and others bearing crossets, that is, iron baskets filled with fire. There were also morris-dancers and other pageantry, and the mayor and sheriffs took part in the procession. It was discontinued in 1539. It is supposed to have been a relic of sun-worship. A spirited account is given of it by John Stow, 'Survey of London' (6th ed., 1754), i. 308. See further T. Sharp, 'Mysteries of Coventry' (1825), pp. 174-79.

<sup>26</sup> Allowed by Wolsey. The mayor has now four swords, one the 'Black Sword,' or 'Mourning Sword,' of the fourteenth century, with a scabbard of black velvet, adorned with silver ornaments of the time of Elizabeth. The other three belong to a later date, and are described by Mr. St. John Hope in Bristol and Gloucester 'Arch. Trans.' xv. 195-200. Cf. 'The Little Red Book,' ii. 237. As two new scabbards were yearly furnished, and are allowed by Wolsey's ordinance, it would seem that they became perquisites of the outgoing mayor.

<sup>27</sup> This qualification is introduced because the last Parliament had been dissolved on December 22, 1515, and the next did not meet till April 15, 1523. Wolsey's ordinance prescribed a payment by the sheriffs to the Chamber of 2*l*. yearly 'against such time as any parliament shall be holden,' so that the charge was spread among all the sheriffs equally.

Item for bryngyng upp of prisoners from      <sup># b</sup> . vj<sup>ll</sup> 28  
 Item for a ton of wyne at mydsomer      <sup># b</sup>      <sup># b</sup> . iiij<sup>ll</sup> xiiij<sup>s</sup> iiij<sup>d</sup>.<sup>28</sup>  
 Somme with the maires      <sup># b</sup>      <sup># b</sup>      <sup># b</sup> Explicacion<sup>29</sup>  
 ciiij<sup>xx</sup> v li.<sup>31</sup>

(Indorsed) William Dale againste  
 the maier & Alder  
 men of Bristowe.  
 P. S.<sup>c</sup>

D.<sup>1</sup> In primis as to the mynysshing of the fees of the kepars of the gates the key and the backe<sup>2</sup> and f<sup>3</sup> concerning the waytyngmen,<sup>4</sup> it is thought the same fees cannot be mynysshid by the sayd s<sup>5</sup> and to have true and sufficient men to occupie the same offices and to make true reconyng concerning the same toll customes and other charges wherewith the same officers and waytyng men euery man in his office been and ought to be chargid.

Item as to the lyuere of the officers it is thought that the meyer and Benche must appoynt the prises of the Clothe for the sayd officers to be of no gretter prise then in the said bill of mynysshing is expressid.<sup>6</sup>

Item for Saynt George is<sup>7</sup> fest, the same Shreves cannot do it with lesse cost and somme of money then vj<sup>ll</sup> 8 without the mayer and his brethern will take vpon theym the ordynaunce of the same

<sup>b</sup> Parchment torn.

<sup>c</sup> I.e. Privatum Sigillum.

<sup>28</sup> From document D, p. 156, it would appear that this charge was for taking prisoners from Bristol to London.

<sup>29</sup> The average cost of the tun (252 gallons) of Gascon wine in the Wardrobe Accounts for 1519 is 4*l.* 13*s.* 9*d.*—a close approximation to this charge (J. E. T. Rogers, 'Hist. Ag. and Prices,' iv, 652). This item is disallowed by Wolsey's ordinance. By an ordinance of the mayor and council of May 20, 28 Hen. 6 (1450), 94 gallons were ordered to be distributed on St. John's Night (June 24), and again on St. Peter's Night (June 29). This total of 188 gallons was in 1519 considerably exceeded.

<sup>30</sup> Explication: 'a detailed statement or description' (Murray, 'Engl. Dict.' s.v. But apparently here used as in the phrase

'Explicatus est liber,' indicating the end of the unrolling of the parchment, the conclusion.

<sup>31</sup> The sum of the figures, so far as preserved, is 182*l.* 12*s.* 6*d.*

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 81. ff. 82, 83, contain a duplicate of William Dale's bill on paper.

<sup>2</sup> See E, p. 158, n. 17.

<sup>3</sup> Paper torn.

<sup>4</sup> Apparently four servants to wait on the sheriffs, see E, p. 158. They are called in Wolsey's ordinance 'waiting yeomen' (p. 164 infra). (Barrett, p. 124.)

<sup>5</sup> Paper torn, probably 'shreves.'

<sup>6</sup> This 'bill' is probably E, p. 156.

<sup>7</sup> Sic.

<sup>8</sup> See C, p. 153, n. 13.

fest, whiche the same Shreves will be well content to be dischargid therof.

Item in like maner for the costes of drynkyng at the Trynytie Chapell can be no lesse then xlv<sup>s</sup>.<sup>9</sup>

Item for the costes at the wrestlyng at Seynt lawrence can no lesse be spent then xx<sup>s</sup>.<sup>10</sup>

Item the mayer and Brederne must order the fees of the Berewardes, for the Shreves can do nothyng therin.

Item the pursivauntes of the exchequer have in like maner xiiij<sup>s</sup> iiij<sup>d</sup> yerely wherof thesaid Shreves of them self can in no wise escape with lesse.

Item for the bryngyng vp of prysoners to london the same Shreves at the lest payethe no lesse but most commonly more than vj li.<sup>11</sup>

Item as for the knyghtes of the Shire of Bristowe for goyng to the parliament, it is reason the Chambre bere it from hensforthe and the Shreves therof euer to be dischargid.

Item it is thought that the dischargyng of the drynkyng at Cristmas be dischargid by the hole assent of the mayer and his brethern and the Commons of the same Towne.

E. The charge sborne by the Shreves of the town of Bristoll.

Fyrst the kynges Fee ferme in the exchequer . . . cij<sup>li</sup> xv<sup>s</sup> vj<sup>d</sup>.<sup>1</sup>

Item to thabbot of Teuxbury . . . . . xiiij<sup>li</sup> x<sup>s</sup>.<sup>2</sup>

<sup>9</sup> This document is evidently by a favourer of festivity, for he improves the estimate of the last list by 5s.

<sup>10</sup> This must include the pears and wine. Cf. C, p. 154, where the wrestling costs 6s. 8d. and pears and wine 13s. 4d.

<sup>11</sup> Presumably these were prisoners for high treason, and perhaps others arrested for debts due to the Crown.

<sup>1</sup> This list purports to give the expenditure of the sheriffs upon other items than those of the mayor's officers, but as it includes some of the items in C, the two lists cannot be contrasted. The ferm of the borough of Bristol varied under different kings, though it would be hazardous to attribute this to the varying prosperity of the town rather than to the rapacity of the Treasury or the policy of the kings. So far as I have been able to collect particulars the ferm was as follows:—Under

Henry 3. 245l. (probably excluding the payments of the four items set out in E).—T. Madox, 'Hist. Excheq.' pp. 228, 229.

Edward 3 (1330). 240l. (excluding the above).—J. Latimer, 'Charters,' p. 18.

Edward 3 (1336). 142l. 10s. (excluding the above).—Ib.

Edward 3 (1371). 100l. (excluding the above).—S. Seyer, 'Memoirs,' ii. 151; J. Latimer, 'Charters,' p. 19.

Henry 4 (1409). 182l. 7s. 10d. (including above).—'Little Red Book,' i. 170.

Henry 6 (1439). 102l. 15s. 6d. (excluding above items).—Ib. i. 232.

Edward 4 (1471). 110l. 19s. 6d. (including the last two items).—Ib. ii. 236.

Richard 3 (1482). 42l. 15s. 6d. (excluding above items).—J. Latimer, 'Charters,' p. 123.

Henry 7 (1486). 102l. 15s. 6d. (excluding above items).—Ib. p. 123.

<sup>2</sup> In a Quo Warranto of 1287 the abbot of Tewkesbury claimed to have view of frank-pledge, &c. 'in Bristol outside Laffard Gate and La Redelond and also a fair at Bristol to last through the whole week of Pentecost. . . . And as regards the aforesaid fair he says that he has a certain cell at the Church of St. James, Bristol, and he says that William, earl of Gloucester, was seised of the aforesaid fair there and



Item to the priour of Seynt Jamys in Bristoll . . . . . iiij<sup>li</sup>.<sup>3</sup>  
 Item to the Constable of the Castell . . . . . xxviij<sup>li</sup> vijs iij<sup>d</sup> ob.<sup>4</sup>  
 Item to the forsters of kyngeswood<sup>5</sup> . . . . . xi<sup>li</sup> vijs.<sup>6</sup>  
 Summ elix li. xix s. ix<sup>d</sup> ob.<sup>7</sup>

Item for the profers<sup>8</sup> in theschequer at michelmes iiij<sup>li</sup> iij<sup>s</sup>.<sup>9</sup>  
 Item for wrytyng of the same . . . . . ij<sup>s</sup>.  
 Item for wax to seale the same and wyne . . . . . xiiij<sup>d</sup>.  
 Item for sendyng vppe the same in a box . . . . . iij<sup>d</sup>.  
 Summ iij<sup>li</sup> vj<sup>s</sup> vj<sup>d</sup>.

Item for the profers at Ester . . . . . xlj<sup>s</sup> viij<sup>d</sup>.<sup>10</sup>  
 Item a view of a Countie<sup>10</sup> . . . . . v<sup>s</sup>.

gave the same to the aforesaid Cell of St. James,' a grant which he proved to have been confirmed by King Henry 2 ('Little Red Book,' i. 106-109). The titles of the rents of Bristol were granted to the abbey of Tewkesbury by Robert Fitz Hamon, who died in 1107. At the Dissolution they were returned at 14*l*. 10*s*., the sum entered here (Dugdale, 'Monasticon,' ii. 86). The abbey also enjoyed rents from Bristol amounting to 15*l*. 17*s*. 4*d*. (ib.)

<sup>3</sup> This payment was for a mill belonging to the priory as stated in the lease in fee-ferm of Edward 3 in 1330 (J. Latimer, 'Charters,' p. 19).

<sup>4</sup> 'Not far distant from the castle without Lawford's gate is a place called Barton Regis, giving name to the Hundred; it was so called because a farm or barton in the King's hands to subsist the castle, and demesne lands there reserved for its use. This manor together with Bristow paid a yearly rent of 110 marks (73*l*. 6*s*. 8*d*.) to the king, and the burgesses returned that Bishop G. (Godfrey de Monbray, bishop of Coutances) had 33 marks and one mark of gold' (Barrett, p. 201). This Bishop Godfrey was custos of the castle. The sum represents 22*l*., exclusive of the mark of gold. Subsequent royal grants shew that the burgesses of Bristol were also charged with 2*d*. per diem to the porter ('janitori') and 3½*d*. per diem to the watchman ('vigilatori') of the castle (J. Latimer, 'Charters,' p. 19; 'Little Red Book,' i. 170, 232). These two items, amounting in all to 8*l*. 16*s*. 5½*d*. per annum, were probably two of the constituents of the total of 28*l*. 7*s*. 3½*d*. here mentioned. The name of this tax was 'Castleward' or 'Castleguard,' 'an imposition laid upon such of the King's subjects as dwell within a certain compass of any castle, towards the maintenance of such as do watch and ward the Castle'

(J. Cowel, 'Interpr.' sub Castleward). It was, in fact, a commutation in lieu of personal service. (See Magna Carta, cap. xxix.) But it appears originally to have been in the form of a prise or fine of beer (see Barrett, p. 213). In the reign of Edward 6 the constable received a salary of 20*l*., payable by the sheriff out of the ferm, the warder 2*d*., and two watchmen 3½*d*. daily (ib.).

<sup>5</sup> Kingswood was a royal chace within the manor of Barton Regis (Bristol and Glouc. Arch. Soc. iv. 146, n. 2). 'It ran down close to Lawford's gate on the East and Clifton Wood on the West of the town, both of them abounding in deer.' By a charter of John, when Count of Mortain, the burgesses of Bristol were granted freedom from molestation on account of venison found within the walls of the town (Rot. Cart. 36 Hen. 3, m. 5; ib. iii. 269). The payments to the foresters of Kingswood ('Forestario' in the confirmation by Henry 4 of the lease of Queen Joan in 1409; 'Forestariis' in the grant by Henry 6 of 1439—'Little Red Book,' 170, 232) was perhaps in return for this privilege. In a grant of 14 Ed. 2 the payment is expressed to be '3*d*. a day for wages' (B. & G. Arch. Soc. xv. 188).

<sup>6</sup> Altered from 'xj<sup>li</sup> viij<sup>s</sup> j<sup>d</sup> ob.'

<sup>7</sup> 'clx<sup>li</sup> xj<sup>d</sup>' struck through.

<sup>8</sup> See A, p. 145, n. 15.

<sup>9</sup> The 'profers' at Michaelmas and Easter added together amount to 5*l*. 4*s*. 8*d*., besides the 3*s*. 2*d*. on each occasion for writing and sealing, a total of 5*l*. 7*s*. 10*d*. This sum was cut down by Wolsey's ordinance to 5*l*. 4*s*. But the total expenses in connexion with the sheriffs' accounts amount, as the bill complains and this list shews, to 13*l*. 16*s*. 8*d*.

<sup>10</sup> Called in Wolsey's ordinance 'The view of the account at Easter.' 'At the Easter sessions, not the account of the

Item for wrytyng of the same profers . . .	ij <sup>s</sup> .
Item for wax to seale the same and wyne . . .	xiiij <sup>d</sup> .
Item for a box and sendyng vp of the same . . .	iiij <sup>d</sup> .
Item for makyng the Shreves Accompt yerely . . .	viiij <sup>li</sup> .

Summ x<sup>li</sup> x<sup>s</sup> ij<sup>d</sup>.

Item to v porters of the v gates that is to say	
Newgate xxxiijs iiij <sup>d</sup> <sup>11</sup> Redclif gate xx <sup>s</sup> <sup>12</sup>	
Tempell gate xxvjs viii <sup>d</sup> <sup>13</sup> Frome gate xiijs	
iiij <sup>d</sup> <sup>14</sup> Pithen gate xx <sup>s</sup> <sup>15</sup> . . . . .	v <sup>li</sup> xiijs iiij <sup>d</sup> <sup>16</sup>
Item to the keper of the key . . . . .	xxvjs viij <sup>d</sup> <sup>17</sup>
Item to the keper of the Bocke . . . . .	xxvjs viij <sup>d</sup> <sup>17</sup>
Summe viij <sup>li</sup> <sup>18</sup> vjs viij <sup>d</sup> .	

Item to the vndre Shreve for hys Fee . . . . .	xl <sup>s</sup> . <sup>19</sup>
Item to iiij waytyng men . . . . .	<sup>20</sup> v <sup>li</sup> vjs <sup>21</sup>
Item for the wynter lyvery . . . . .	<sup>22</sup> ix <sup>li</sup> ijs.
Item for the sommer lyverey . . . . .	<sup>23</sup> v <sup>li</sup> xv <sup>s</sup> .

sheriff was taken, but the view of his account only; that is to say, he was summoned for half of his farm, and any other accessible credits, at the discretion of the officials or the pressing need of the Crown' (H. Hall, 'Antiquities of the Exchequer,' p. 151).

<sup>11</sup> Interlined in substitution for 'xl'.

<sup>12</sup> Interlined in substitution for 'xxvj' viij<sup>d</sup>.

<sup>13</sup> Interlined in substitution for 'xxxiijs' iiij<sup>d</sup>.

<sup>14</sup> Interlined in substitution for 'xx'.

<sup>15</sup> Under 'Gates in the Waulls of Brightstow,' Leland says: 'Newgate (as me thinkythe) is in the utar Waull by the Castle, and a Chapelle over it. It is the Prison of the Citie. . . . In the utter Waulls Pety Gate. From Gate in the uttar Waulls. . . . In the Waulle ultra pontem et Avonam be 2 Gates; Raddeclif Gate and Temple Gate. . . .' ('Itinerary,' ed. T. Hearne [2nd ed. 1742], f. 69, a). Barrett (p. 56, n.) spells 'Pety Gate' 'Pithay Gate,' and says that it was formerly called 'Putte,' or pit, from its low site. 'The distriet was called the Pithay (pit-hedge, or well-elose)' (Hunt, p. 15).

<sup>16</sup> Interlined in substitution for 'viij<sup>li</sup>'. It will be observed that, despite the protests of D, p. 155, the wages of the keepers of these gates were reduced from 7*l.* to 5*l.* 13*s.* 4*d.* In Wolsey's ordinance the wages of the porter of Newgate were reduced to 30*s.*, and of Pithen or Pithay Gate to 13*s.* 4*d.* The wages of 'the

keeper of the Baek' were added 26*s.* 8*d.*, the total allowed amounting to 6*l.* 10*s.*, which is set down as 7*l.* 16*s.* 8*d.*, some items having presumably been omitted. P. 164 infra.

<sup>17</sup> Interlined in substitution for 'xl'. In Wolsey's ordinance, p. 164, 'For the wages to the keepers (sie) of the key, 1*l.* 8*s.* 8*d.*' As to the keeper of the Backe see n. 16. 'The Shippes of olde tyme eam only up by Avon to a place caullyd the Bek, where was and is Depthe enowghe of Water' (Leland, 'Itinerary,' 70, b).

<sup>18</sup> Interlined in substitution for 'xj<sup>li</sup>'.

<sup>19</sup> Cut down by Wolsey's ordinance to 26*s.* 8*d.*

<sup>20</sup> 'viij<sup>li</sup>' struck through.

<sup>21</sup> This document has been carelessly bound up in a volume so that the pence are not in this item visible; but Wolsey's ordinance gives viij<sup>d</sup>, as also the letter in L. and P. Hen. 8, iii. 457.

<sup>22</sup> In substitution for 'x<sup>li</sup>,' struck through.

<sup>23</sup> 'viij<sup>li</sup>' struck through. The sum may be more than xv<sup>s</sup>, and may include pence. See note 21. This and the preceding amount to a total of 15*l.* 17*s.*, a forcible contrast with the 48*l.* 7*s.* 2*d.* which is the total cost of liveries, including furs, thitherto exacted, as set out in A and C. Wolsey's ordinance compromised by allowing 25*l.* 'for the town liveries in the whole to all manner of officers, for which the sheriffs have the profits of St. James's fair.'

Item for the watche on mydsommer nyght by  
 estymacyon . . . . . xx<sup>li</sup>.<sup>24</sup>  
 Costes at Sessions and Gaole deliueries by  
 estimacyon . . . . . xl<sup>s</sup>.<sup>25</sup>  
 Summa xliiij<sup>li</sup> v<sup>s</sup> iiij<sup>d</sup>. Summa totalis cexxvj<sup>li</sup> viij<sup>s</sup>.<sup>26</sup>

F. Costes payd by the Shreves vpon the meyr Recorder and  
 other officers of the town of Bristoll and other wayes.<sup>1</sup>

Item to the mayer yerely for hys pension xx<sup>li</sup>  
 xij yardes scarlett viij<sup>li</sup> the furre vj<sup>li</sup> xij s. iiij<sup>d</sup>  
 wyne iiij<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup> mynstrelles iiij<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup>  
 ij Torchis xij<sup>s</sup> iiij<sup>d</sup> . . . . . xliij<sup>li</sup>.  
 Item for the Commyssion of the staple for the  
 meyres court . . . . . xxij<sup>s</sup> vj<sup>d</sup>.<sup>2</sup>  
 Item to the Recorder for hys Fee x<sup>li</sup> x yardes  
 scarlet vj<sup>li</sup> xij<sup>s</sup> iiij<sup>d</sup> the furre iiij<sup>li</sup> . . . . . xix<sup>li</sup> xij<sup>s</sup> iiij<sup>d</sup>.  
 Item to the towne Clerk for hys Fee iiij<sup>li</sup> hys furre  
 vi<sup>s</sup> viij<sup>d</sup> parchment wax and wyne xx<sup>s</sup> ij law  
 days vj<sup>s</sup> viij<sup>d</sup> his gowne vj brode yardys<sup>3</sup> at  
 v<sup>s</sup> the yard<sup>3</sup> xxx<sup>s</sup> . . . . . viij<sup>li</sup> iiij<sup>s</sup><sup>4</sup> iiij<sup>d</sup>.  
 Item to the stuarde for hys Fee iiij li hys furre  
 vj<sup>s</sup> viij<sup>d</sup> paper and parchment vj<sup>s</sup> viij<sup>d</sup> wyne  
 ij<sup>s</sup> viij<sup>d</sup> hys gowne of v brode yardes at v<sup>s</sup><sup>3</sup>  
 a yarde xxv<sup>s</sup><sup>5</sup> . . . . . v<sup>li</sup>.<sup>6</sup>  
 Item to the townys Attourney hys Fee iiij<sup>li</sup> hys  
 furre vj<sup>s</sup> viij<sup>d</sup> and a gowne of v brode yardes  
 at v<sup>s</sup><sup>6</sup> a yarde . . . . . iiij<sup>li</sup> xj<sup>s</sup> viij<sup>d</sup>.<sup>7</sup>

<sup>24</sup> Allowed in Wolsey's ordinance, being the sum thitherto paid. Under this, in another hand, is written, 'That their pleasure,' but the first and last words are doubtful. See note 21. There follow, struck through:

'Item for a Ton of wyne  
 on mydsomer nyght for  
 the craftis of the towne' iiij<sup>li</sup> xij<sup>s</sup> iiij<sup>d</sup>  
 with the note appended in another hand,  
 'This is parcell of the seid xx li.'

'Item to the knyghtes of the Shyre of  
 Bristoll that goo vnto  
 the parliament when  
 tyme requyreth . . . . . x li.

'Item for bryngyng vppe  
 of persons to West-  
 minster from Newgate  
 of Bristoll . . . . . vi li.'

<sup>25</sup> In Wolsey's ordinance, 'For the costs of sessions and law days 2l. 0s. 0d.' P. 164 infra.

<sup>26</sup> Some pence perhaps follow, but are bound in. 'cclix li. x<sup>s</sup> xi<sup>d</sup>' is struck through.

<sup>1</sup> This list differs materially from C, and appears to be a revised copy of it. See Introduction, pp. cviii-exviii.

<sup>2</sup> There may be some pence bound up.

<sup>3-5</sup> Interlined.

<sup>4</sup> Substituted for 'ix<sup>s</sup> iiij<sup>s</sup>,' struck through. See C, p. 152.

<sup>5</sup> Instead of 'xxx<sup>s</sup>,' struck through. See C, ib.

<sup>6</sup> 'vj<sup>s</sup>,' struck through. See C, ib.

<sup>7</sup> Substituted for 'xvj<sup>s</sup> viij<sup>d</sup>,' struck through (ib.).



- Item to the Sworde berer for hys Fee *ij<sup>li</sup>* hys  
 furre *vj<sup>s</sup> viij<sup>d</sup>* hys sommer gowne *xij<sup>s</sup> iiij<sup>d</sup>*  
*ij* hattes *xl<sup>s</sup>* a gowne of *vi* Brode yarde at *v<sup>s</sup>*  
 a yarde *xxxj<sup>s</sup> 8* . . . . . *vj<sup>li</sup> viij<sup>s</sup> iiij<sup>d</sup> 9*
- Item to Seynt Georges priest for hys wages  
*v<sup>li</sup> vi<sup>s</sup> viij<sup>d</sup>* and A gowne of *v* brode yarde at  
*iiij<sup>s</sup> iiij<sup>d</sup> 10* a yarde *xxi<sup>s</sup> viij<sup>d</sup> 11* . . . . . *vj<sup>li</sup> viij<sup>s</sup> iiij<sup>d</sup> 12*.
- Item to the Chamberleyn A gowne of *v* brode yarde  
*xxi<sup>s</sup> viij<sup>d</sup> 13*
- Item to the towne Clerk is <sup>14</sup> Clerk A gown of *iiij*  
 brode yarde at *iiij<sup>s</sup>* a yarde . . . . . *xvj<sup>s</sup>*.
- Item to the stuard is <sup>14</sup> Clerk a lyke gowne . . . . . *xvj<sup>s</sup>*.
- Item to the mayres *iiij* serieauntes *iiij* gownes *xvj<sup>15</sup>*  
 brode yarde at *ij<sup>s</sup> iiij<sup>d</sup> 16* a yarde . . . . . *iiij<sup>li</sup> ix<sup>s</sup> iiij<sup>d</sup> 17*
- Item to the waterbaylly a gowne of *iiij* brode  
 yarde <sup>18</sup> at *iiij<sup>s</sup> 19* a yarde . . . . . *xvj<sup>s</sup> 20*
- Item to the waytes of the towne in money  
*xxix<sup>s</sup> viij<sup>d</sup>* and *iiij* gownes conteynyng *xij* yarde  
 at *ij<sup>s</sup> iiij<sup>d</sup> 21* a yarde *xl<sup>s</sup>* . . . . . *iiij<sup>li</sup> ix<sup>s</sup> viij<sup>d</sup> 22*
- Item to the Clerke of the market A gowne of *iiij*  
 brode yarde at *ij<sup>s</sup> viij<sup>d</sup> 23* a yarde . . . . . *xij<sup>s</sup> iiij<sup>d</sup> 24*
- Item for kepyng of Seynt Nicolas Clocke . . . . . *xxvj<sup>s</sup> viij<sup>d</sup>*.
- Item for Ryngyng the Common bell on Seynt  
 Nicolas day . . . . . *iiij<sup>s</sup>*.  
 Summa . . . . . *cvj<sup>li</sup> iiij<sup>s</sup> x<sup>d</sup> 25*
- Item for spicers obite to the mayer *vj<sup>s</sup> viij<sup>d</sup> 26* to  
 the Towne Clerke *ij<sup>s</sup> iiij<sup>d</sup>* to *iiij* sergeauntes  
*xvj<sup>d</sup> xx* prestes *vj<sup>s</sup> viij<sup>d</sup>* *iiij* ordres off Freres  
*xij<sup>s</sup> iiij<sup>d</sup>* to the vicar of Seynt Nicolas for  
 lyght *iiij<sup>s</sup>* for Ryngyng of the belles *iiij<sup>s</sup>* the bell  
 mann *iiij<sup>d</sup>* for brede to poore people *xxx<sup>s</sup> iiij<sup>d</sup>* *iiij<sup>li</sup> ix<sup>s</sup> 27*

<sup>8</sup> Substituted for 'xxxvj<sup>s</sup>,' struck through. See C, p. 152.

<sup>9</sup> Substituted for 'xvj<sup>s</sup> viij<sup>d</sup>,' struck through. See C, ib.

<sup>10</sup> Substituted for 'vj<sup>s</sup>,' struck through (ib.).

<sup>11</sup> Substituted for 'xxx<sup>s</sup>,' struck through (ib.).

<sup>12</sup> The shillings and pence substituted for 'xvj<sup>s</sup> viij<sup>d</sup>,' struck through (ib.).

<sup>13</sup> Substituted for 'xxx<sup>s</sup>,' struck through (ib.).

<sup>14</sup> Sic.

<sup>15</sup> Substituted for 'xviij,' struck through (ib.).

<sup>16</sup> Substituted for 'v,' struck through (ib.).

<sup>17</sup> Substituted for 'iiij li. x,' struck through (ib.).

<sup>18</sup> 'and a halfe,' struck through (ib.).

<sup>19</sup> Substituted for 'v<sup>s</sup>,' struck through (ib.).

<sup>20</sup> Substituted for 'xxij' vj<sup>d</sup>,' struck through (ib.).

<sup>21</sup> Substituted for 'iiij<sup>s</sup>,' struck through (ib.).

<sup>22</sup> Substituted for 'iiij<sup>li</sup> xviij<sup>s</sup> viij<sup>d</sup>,' struck through (ib.).

<sup>23</sup> Substituted for 'iiij<sup>s</sup>,' struck through (ib.).

<sup>24</sup> Substituted for 'xvj<sup>s</sup>,' struck through (ib.).

<sup>25</sup> Substituted for 'cix<sup>li</sup> xix<sup>s</sup> iiij<sup>d</sup>.'

<sup>26</sup> There follows 'to the Shreves iiij<sup>s</sup>,' struck through.

<sup>27</sup> Substituted for 'xiiij<sup>s</sup>,' struck through. See C, p. 153.

Item for xx queyres of paper at michelmas for the towne clerk and Stuarde . . . . .	v <sup>s</sup> .
Item ij bagges iiij Forellis for the same . . .	xviiij <sup>l</sup> .
Item vj Torchies at Seynt Georges tyde <sup>28</sup> xx <sup>s</sup> and drynkyng at the same fest iiij <sup>li</sup> vj <sup>s</sup> viij <sup>d</sup> <sup>29</sup> .	iiij <sup>li</sup> vj <sup>s</sup> viij <sup>d</sup> <sup>30</sup>
Item the drynkyng at the Trinite Chapell . . .	xx <sup>s</sup> <sup>31</sup>
Item <sup>32</sup> the drynkyng at Seynt Nicolas day . . .	iijs <sup>s</sup> iiij <sup>d</sup> <sup>33</sup>
Item the wrastlyng at Seynt Laurence day vj <sup>s</sup> viij <sup>d</sup> and peers with wyne vj <sup>s</sup> viij <sup>d</sup> <sup>34</sup> . . . . .	xiijs <sup>s</sup> <sup>35</sup>
Item the wrastlyng at Seynt Jamys tyde . . .	vj <sup>s</sup> viij <sup>d</sup> .
Item to Berewardes . . . . .	iijs <sup>s</sup> iiij <sup>d</sup> <sup>36</sup>
Item to the messengers of the xchequer . . .	iiij <sup>s</sup> <sup>37</sup>
Item for a Sarmon at Saynt Augustyns the Wednysday in Ester weke . . . . .	vjs <sup>s</sup> viij <sup>d</sup> .
Item to the iiij ordres of Freres . . . . .	xxxij <sup>s</sup> .
Item for ij scaberdes for the meyre . . . . .	xxx <sup>s</sup> .
Item for the kyng and Quene is <sup>14</sup> mynstrellis Summa . . . . .	vjs <sup>s</sup> viij <sup>d</sup> <sup>38</sup> xiiij <sup>li</sup> viij <sup>s</sup> ij <sup>d</sup> <sup>39</sup>
Summa Totalis . . . . .	cccxlvij <sup>li</sup> v <sup>s</sup> <sup>40</sup>
by Sydys Howssold and Apparell. <sup>41</sup>	

<sup>28</sup> Substituted for 'fest,' struck through. See C, p. 153.

<sup>29</sup> Substituted for 'v<sup>li</sup>,' struck through (ib.).

<sup>30</sup> Substituted for 'vj<sup>li</sup>,' struck through (ib.).

<sup>31</sup> Substituted for 'xl,' struck through (ib.).

<sup>32</sup> Between this and the preceeding item is: 'Item the drynkyng at Cristmas by extimaeyon xiiij<sup>li</sup> vj<sup>s</sup> viij' struck through. See C, p. 154.

<sup>33</sup> Substituted for 'v<sup>s</sup>,' struck through (ib.).

<sup>34</sup> Substituted for 'xiijs<sup>s</sup> iiij<sup>d</sup>,' struck through (ib.).

<sup>35</sup> Substituted for 'xx<sup>s</sup>,' struck through (ib.).

<sup>36</sup> Substituted for 'x<sup>s</sup>,' struck through (ib.).

<sup>37</sup> Substituted for 'xiijs<sup>s</sup> iiij<sup>d</sup>,' struck through (ib.).

<sup>38</sup> Substituted for 'x<sup>s</sup>,' struck through (ib.).

<sup>39</sup> Substituted for 'xxxj<sup>li</sup> xix<sup>s</sup> x<sup>d</sup>,' struck through. The sum should be 14*l.* 7*s.* 10*d.*

<sup>40</sup> Some penec may probably be concealed in the binding. This sum is substituted for 'cccx<sup>li</sup> xxx<sup>s</sup> j<sup>d</sup>.' It is intended to include E and F.

<sup>41</sup> In L. and P. Hen. 8, iii. 457, under date of September 1519, is printed a paper II.

headed 'Sheriffs of Bristol. Yearly expenses of the sheriffs of Bristol, which they are bound to pay of their yearly receipt of 60*l.* of the chamber of the same town,' &c. The list which follows is almost identieal with the items of E and F. But the summary runs as follows: 'Total eosts 346*l.* 0*s.* 5½*d.*, stated by the sheriff to be 31*l.* 2*s.* 11*d.* more (377*l.* 3*s.* 4½*d.*). Average receipts 286*l.* 17*s.* 8*d.*, stated by the sheriff to be 14*l.* 7*s.* less (272*l.* 10*s.* 8*d.*). Average expense 50*l.* 2*s.* 9*d.*' The differencees between the list in L. and P. and the lists E and F are as follows: The lists in E and F have these items not to be found in L. and P.

*List E.*

Item a view of a Countie . . . . . v<sup>s</sup>.  
Item for wrytyng of the same profers ij<sup>s</sup>.  
Item for wax to seale the same and  
wyre . . . . . xiiij<sup>d</sup>.  
Item for a box and sendyng up of  
the same . . . . . iiij<sup>d</sup>.  
All the above belong to the Easter  
'profers.'

On the other hand, List F omits the 20*l.* for the Midsummer Watch.

In L. and P. the winter livery is 9*l.* 2*s.* 8*d.*; the summer livery 5*l.* 16*s.* instead of 9*l.* 2*s.*, and 5*l.* 15*s.* as in E.

See further, Introduction, p. exii.

G.<sup>1</sup> The Declaracion and demeanour of William Dale Concernyng the Article of graunte made by the kynges nobull progenitoures to the Mayer and Cominaltie of the Towne of Brystoll and to the same William Dale late delyuered.<sup>2</sup>

The seid William Dale to the same seith that he in open Councell in the presens of the Mayer and aldermen with suche as had byn Sheryffes before that tyme made his humble petition and complaynt of his Grevys concernyng the havyng and takyng vppon hym the seid Office of Sheryaltie<sup>3</sup> humbly desyryng theym to consider his youthe and yong begynnyng toward his Increse in Marchandyse and the greate Importabull Charge that other suche yong begynneres as he is of late haue byn dyuers tymes Elected to the seid Rome<sup>4</sup> and for suche greate charges as they haue Borne and must bere by Reason of the same Office after their yer Ended and their Charges payed they were neuer after abull to come forwardes and to be afforehand ayen butt rather grow to pouertye and nedines and the same William there further declared to the seid Mayer and his Brethern the Causes and consideracions of late Specified in his petition emonges other made now of late to our soueraign lord the kyng<sup>5</sup> desyryng the same Mayer and his Brethern then and there in most humble maner to dismys hym<sup>6</sup> of the seid Office and to Electe and chose Men of suche substaunce that were abull to bere suche charges as to the seid Office apperteyned. All this consideracion nott withstondyng the seid Mayre and bretheren whiche were there and hadd passed the daungeour of the seid Office by their great Substaunce that they hadd before gottyn and the seid William Dale beyng of smale substaunce to bere the Charges of the same Office butt to his vtter vndoing whiche petition and Consideracion was then lyttill or nothyng Considered butt by their Commaundement was Compelled to take the same Office vppon hym to his great losse without remedye in the premissis were provided by the seid Mayer and aldermen accordyng to the seid graunte<sup>7</sup> wheruppon the seid William Dale made his petition and

<sup>1</sup> S.C.P. Hen. 8, Bundle xviii. No. 265.

<sup>2</sup> I take this to be the charters, especially that of 1499, to which he appears subsequently to refer.

<sup>3</sup> Apparently the protest referred to was made at the meeting which elected him on September 15, 1518.

<sup>4</sup> Room, i.e. place.

<sup>5</sup> As a matter of fact, the petition was addressed to Wolsey as Chancellor, in accordance with the prescription of the

Statute 'Pro Camera Stellata' (3 Hen. 7, c. 1). See 'Select Cases in the Star Chamber' (1892), p. xv.

<sup>6</sup> An indication that he had not yet been sworn in, as presently appears.

<sup>7</sup> This may be taken to refer to a clause in the Charter of 1499, empowering the mayor and aldermen to remove an alderman if they saw fit (J. Latimer, 'Charters,' p. 130).



other vrgent consideracions dyuerse and meny tymes to the seid Mayre and Brethern whiche by theym was littill regarded and no thyng done accordyng to the seid graunte and law provided in that behalff by reason wherof the same William Dale was and is for his relieff and socoure dryvyn of necessite to make his humble sute to his Prynce for his remedy in the same as lawfull was for hym to doo the reformation wherof as ferre as the same William Dale dothe know and thynk in his mynd and Conciens shuld be for the weale and prosperitie of the Inhabitauntes within the same Towne whiche he referrieth to your great and high Wysdoms<sup>s</sup> to be Conforted.

(*No indorsement.*)

H. (Decree of the Court of Star Chamber.<sup>1</sup>)  
Ordinances of Cardinal Wolsey, Chancellor.

	£	s.	d.
1. The Sheriffs shall receive the yearly profits of St. James's Fair amounting by computation to . . .	23	0	0
2. Of the gaoler for the fee-farm of the Gaol . . .	13	6	8
3. Of divers obits holden in the town . . .	2	8	4
4. The yearly profits and advantages coming of the Key, by estimation . . .	66	13	4
5. Ditto of the Back, by estimation . . .	16	0	0
6. Of Newgate, 27 <i>l.</i> ; of Temple gate, 20 <i>l.</i> ; Redcliff gate, 9 <i>l.</i> ; of Froom gate and Pithay gate, 1 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> ; the whole . . .	57	6	8
7. Of the standing of the market-folks in the Market . . .	3	13	4
8. Of amerciaments, nonsuits, &c., in courts, by estimation . . .	2	13	4
9. Of the profits of Sessions and Law-Days, fines, frauds, bloodsheds, entries, <sup>2</sup> felons' goods, escheats, forfeits, and all other casualties, by estimation . . .	30	0	0
Sum of the profits to be yearly taken by the Sheriffs . . .	215	1	8

\* Although the declaration purports to be addressed to the king, these words shew that the petitioner had the Council in mind. For similar discrepancies in petitions see 'Select Cases in the Star Chamber' (1902), pp. xiv. xv. This declaration appears to have been filed by way of sup-

plement to the petition.

<sup>1</sup> This is an abridgement printed in Barrett, pp. 123-25.

<sup>2</sup> Cowel in his 'Interpreter,' *sub* 'Entry,' says, 'properly the taking possession of lands or tenements.' Presumably a fine 'ad ingressum' was paid to the town.

## The yearly payments to be made by the Sheriffs.

	£	s.	d.
1. They shall pay the fee-farm of the town, amounting to	102	15	6
"    "    " to the Abbot of Tewksbury . . . . .	14	10	0
"    "    " to the Prior of St. James . . . . .	3	0	0
"    "    " to the Constables and Officers of the Castle . . . . .	28	7	3
"    "    " to the Foresters of Kingswood . . . . .	11	7	3
in the whole .	160	0	0
2. For the proffers to the Exchequer at Michaelmas and Easter with the writing and sealing thereof . . . . .	5	4	0
3. The view of the account at Easter, the making the Sheriffs' account at Michaelmas, and divers other payments in the Exchequer . . . . .	14	10	6
4. To the Steward of the Town, his pension . . . . .	3	9	4
5. To the Undersheriff, for his fee . . . . .	1	6	8
6. To St. George's priest, his pension, bread, and wine .	5	8	4
7. To the yearly obit of Richard Spicer in St. Nicholas Church . . . . .	3	13	0
8. To the wages of the clerk of the same Church, and for keeping the clock there . . . . .	1	6	8
9. To each of the four orders of Friars, 8s. each . . . .	1	12	0
10. To be spent yearly at St. George's Feast . . . . .	2	0	0
11. At the drinking at the Trinity Chapel . . . . .	13	4	
12. To the two scabbards for the mayor . . . . .	1	10	0
13. To the cost of Midsummer Watch yearly . . . . .	20	0	0
14. For the Town liveries in the whole to all manner of officers, for which the Sheriffs have the profits of St. James's Fair . . . . .	25	0	0
15. For the costs of Sessions and Law Days . . . . .	2	0	0
16. For the writers for their wages yearly . . . . .	1	9	8
17. For the wages to the keepers of the key . . . . .	1	8	8
18. Ditto to the keeper of the Back, 26s. 8d.; to the Porter of Newgate, 30s.; Redcliff gate, 20s.; Temple gate, 26s. 8d.; Fromm gate, 13s. 4d.; Pithay gate, 13s. 4d. . . . .	7	16	8
19. Wages to each of waiting yeomen, 1l. 6s. 8d. . . .	5	6	8
20. For the commission of the Staple . . . . .	1	2	6
21. For twenty quires of paper, bags, and ferrells for the Town Clerk . . . . .	6	8	

	£	s.	d.
22. To the Town Clerk for two Law Days . . . . .		6	8
23. For writing the proffers yearly . . . . .		4	0
24. For writing the indentures for the gaol between the new Sheriffs and the old . . . . .		2	8
25. For ringing the common bell at Michaelmas . . . . .		4	0
26. For the messengers of the Exchequer . . . . .		4	0
27. At the drinking at the Tolzey at St. Nicholas' day . . . . .		2	0
28. To the Chamber yearly towards the charges of the burgesses of Parliament against such time as any Parliament shall be holden . . . . .	2	0	0
	268	8	0

All other charges of the Town to be always borne at  
the charge of the Chamber.

Total of the yearly charges of the Sheriffs . . . . . 268 8 0

So that their charges still exceeded their profits besides  
the costs of bringing up the prisoners . . . . . 53 6 4

#### SUPPLY OF CORN, &c.

1527

<sup>1</sup> The certificat of Sir Antony Fitzherbert Knyght <sup>2</sup> Phyllypp Draycott <sup>3</sup> esquire Edward lytylton <sup>4</sup> esquier and other the Kynges commissioners <sup>5</sup> in the countie of Stafford as consernying the serche For cornez and other articlez expressed in the same commission.

The seid commissioners accordying to the tenour of the same commission have serched and vewed all the Barnes garners Stakkes

<sup>1</sup> S.C.P. Hen. 8, Bundle xxvi. No. 159. Introd. p. xxiii.

<sup>2</sup> Justice of the Common Pleas, born 1470, died 1538; sixth son of Ralph Fitzherbert of Norbury, Derbyshire. His second wife was Matilda, daughter and heir of Richard Cotton of Hamstall Ridware, Staffordshire, which accounts for his nomination as a commissioner for the county, for which he was also a justice of the peace (L. and P. Hen. 8, i. 5506). He was knighted in 1522, upon being raised to the Bench. If, as is probable, he was the author of 'The Boke of Husbandrie' and 'The Boke of Surveyenge,' he was also a practical farmer and an agriculturaleconomist. See further 'Dict. Nat. Biog.'

<sup>3</sup> Philip Draycott, Draycotte, or Dray-

cote, of Dracote, Staffordshire, a family settled there immediately after the Conquest, was the son and heir of Sir John Draycott by Elizabeth, daughter of Roger Eyre of Padley, Derbyshire (S. Erdeswick, 'Survey of Staffordshire' [ed. T. Harwood, 1844], p. 253). He was in 1526 a member of the Inner Temple ('Records of I. T.' [1906], i. 82), having been since 1522 on the commission of the peace for Staffordshire (L. and P. Hen. 8, iii. 2415). The date of Sir John Draycott's death is unknown, but as he was last nominated upon the commission of the peace in November 1523, it was presumably not long after (L. and P. Hen. 8, iii. 3586). In the same year (August 30) Philip 'Draycote' was nominated a commissioner for the subsidy



Reekes mowes and other suspecyous places in the same to have hydde corne so that they can not fynde nor see that ther is corne sufficient

in Staffordshire (ib. iii. p. 1363), and in 1524 was again put upon the Commission of the Peace for the county (ib. iv. p. 235), as also in 1526 (ib. 2002, 11) and subsequent years (ib. v. 119, 56, &c.). In 1526 he acquired land by a fine at Whittington, Eccleshall ('Staffordshire Collections,' William Salt Society, xi. 267). That he sympathised with the king in the matter of the divorce may be inferred from the fact that, as a knight, he took part as a 'servitor' in attendance upon Queen Anne Boleyn at the banquet in Westminster Hall on the day of her coronation, May 29, 1533 (L. and P. vi. 562). In November of the same year he was pricked sheriff of Staffordshire (ib. 1481, 29). His support of Cromwell's administration was attested by his diocesan, Bishop Roland Lee, in 1534 (ib. vii. 758). He was steward of the Cistercian Abbey of Hulton or Hilton in Staffordshire, an office generally given to men of a legal education (ib. 1096). His name appears on a list of those relied on by the Government to act against the Northern rebels in 1536 (ib. xi. p. 235). In November he was in arms against them as one of the commanders of the royal army (ib. 1136, 2). When measures of defence were being taken against a threatened coalition of the Roman Catholic Powers, Draycott, who was nominated a commissioner of musters for the county (ib. xiv. i. p. 289), wrote to Cromwell: 'As my lord steward, which brought me up, is dead, I desire, if you will allow me, to serve under your Lordship' (April 16, 1539) (L. and P. ib. i. 785). This refers to George Talbot, fourth Earl of Shrewsbury, who had died some nine months before (July 26, 1538), and had, next to the Duke of Norfolk, been the most active suppressor of the Northern rebellion. It is evidence that, pursuant to the practice of the time, Draycott had, as a boy, been a page in the earl's household and had, in the recent operations, been attached to his division of the royal forces. With a view to stamping out the embers of disaffection in the Midlands, Draycott was on February 4, 1539, nominated one of a numerous body of commissioners to try cases of treason upon the Oxford Circuit (ib. i. 403, 17). In the following December he was a commissioner of jail delivery for Staffordshire (ib. ii. 780, 35). He does not, however, appear to have earned exceptional favour from the king. On 10 June his friend Cromwell, earl of Essex, was arrested and charged with high treason. A fortnight later Draycott was compelled by the Court of Augmentations to surrender a lease

for sixty-one years of pasture at Mixston Heys, Staffordshire, which he had secured from the Abbey of Hulton on February 1, 1536. The Abbey was one of the smaller houses condemned to dissolution in 1535, and at the time that Draycott obtained the lease it had passed in law to the Crown. On October 1, however, it had, by payment of 66*l.* 13*s.* 4*d.* to the Court of Augmentations, obtained the royal permission to remain undissolved, and it was probably in expectation of this grant that Draycott's lease was granted (F. A. Gasquet, 'Henry VIII. and the English Monasteries,' Append. i. vol. ii. p. 530). Draycott was now, the Abbey being dissolved, compelled to accept in exchange a lease for twenty-one years (ib. xv. pp. 555, 558), presumably at the rent of 5*l.* 16*s.* 8*d.*, paid by him to the Abbey (Dugd. 'Monast.' v. 716). The reversion of the lease at the same rent was granted on September 20, 1540, to Edward Lyttelton of 'Pylytnall' (see next note), from which it may be inferred, as from the circumstances of the original grant, that it was held on very beneficial terms. Draycott's name appears for the last time as a commissioner of oyer and terminer for the Oxford Circuit on February 4, 1541 (ib. xvi. 580, 20). According to Erdeswick (l.s.c.) he died in '32 Henry 8, 1540,' a date which may imply that his death took place before March 25, 1540. By his wife Elizabeth, daughter of John Fitzherbert of Norbury, Derbyshire, he had a son Richard (ib.).

<sup>1</sup> Edward Lytylton, son of Richard Lytylton, Littleton, &c., by Alicia Winnesbury, heiress of Pilleton-hall, Staffordshire (S. Erdeswick, 'Survey of Staffordshire' [ed. T. Harwood, 1844], p. 179). His father, Richard, was second son of the famous judge Sir Thomas Littleton, whose work 'On Tenures' was drawn up for his use (ib. 182). He may perhaps be the Edward Lytylton, a captain for Staffordshire in Henry 8's army which invaded France in June 1513 (L. and P. Hen. 8, i. 4253). He was rewarded with a joint grant, dated August 7, 1514, of the wardship of John, son and heir of Sir William Lyttelton, probably his first cousin (L. and P. Hen. 8, i. 5310). He appears to have had the means as well as a strong desire to extend his landed property in his county, and he obtained from the Crown on November 13, 1515, a grant of land valued at 20*l.* a year belonging to his ward, to be enjoyed by himself during his ward's minority (ib. ii. 1149). He was admitted a member of the Inner Temple on February 11, 9 Henry 8 (1518), being 'pardoned

in the same shyre to susteyne the peple ther inhabyted except they may have their bargayns made with other personez in other shyrez to be kept with theym and also to have ayde and resort to other shyres to Fetche corne thens with horsez as a fore tyme hath byn vsed Wherefore the thynke necessary that other shirez sholde not be

all offices and has licence to be in commons at his pleasure,' evidence that he had no intention of practising as a barrister ('Inner Temple Records' [1896], i. 41). He was at the same time 'assigned the Chamber where his father lay' (ib.). Although a chamber in the Temple may have been of use for occasional visits to London, his home was at Pilleton-hall, his father being at this time presumably dead. Together with Sir Anthony Fitzherbert and two other gentlemen of the county he advanced 770*l.* 17*s.* 4*d.* in 1523 as a loan for the war with France (L. and P. iv. 83). In 1526 he obtained an honorary Court post which must have occasionally necessitated attendance on the king as a gentleman usher 'out of wages' for Staffordshire (ib. p. 868). In the same year he obtained, by payment of 80*l.*, the wardship of John, son and heir of John Cotes of Shropshire (ib. 5508). He was elected a knight of the shire for Staffordshire in the Parliament of 1529 ('Members of Parliament' in Parliamentary Papers, 1878, vol. lxii. pt. i. p. 370). In that list he is styled 'miles,' which he was not, except in the sense of a 'knight of the shire,' until 1553. He was nominated a commissioner to inquire into Wolsey's possessions in Staffordshire on July 14, 1530 (L. and P. iv. 6516). After 1530 he acquired considerable estates in the county, the fines by which they were conveyed to him being published in the William Salt Society's 'Historical Collections for Staffordshire,' xi. 271, 283, 284, 286, 288, xii. 205, 218. There are signs that upon the question of the divorce, which was brought to a head by the king's formal separation from Katharine of Aragon in July 1531, he ranged himself with the king's party. He was placed on the commission of the peace for the county on February 16, 1531 (L. and P. v. 119, 56), and in subsequent years (ib. 838, 35, viii. 149, 75, &c.). As the conflict grew more acute and involved a new policy in matters of religion, Littleton lent such support to the Government that in 1534 Roland Lee, bishop of Coventry and Lichfield, at that time Cromwell's right-hand man in matters ecclesiastical, wrote to that Minister expressing his confidence in him (ib. vii. 758). As a sympathiser with the religious changes he was recognised by the Government as one of the gentry on whom it could rely (ib. xi. p. 235). In 1536 he joined

the king's army, and was one of the hostages for Aske's envoys, being delivered up as such to the leader of the Pilgrimage of Grace (ib. xii. i. 6, p. 5). These services and the friendship of Bishop Lee, who approached Cromwell in his favour (ib. xiii. ii. 629, 736, 1107), brought him the reward in 1540 of a grant of 'the house of the late monastery of Haughmond, Salop,' with lands (ib. xvi. 107, 19). In the same year (1539-40) he was sheriff of Staffordshire and commissioner of musters for the county (ib. xiv. i. p. 289, ii. 619, 38). He did not long retain his grant, for on November 20, 1542, he and Isabella his wife obtained a licence to alienate lands in Haughmond (ib. xvii. 1154, 65). On January 24, 1543, he was placed on a commission of oyer and terminer for the Oxford Circuit (ib. xviii. i. 100, 22), and in the following year he was made a commissioner of jail delivery for Staffordshire and other counties (June 11, 1544) (ib. xx. i. 622, p. 313). Upon Henry 8's invasion of France in July 1544, he was ordered to raise twenty foot soldiers and to march in the vanguard of the army (xix. i. 274). There are signs, however, that, perhaps satisfied with his grant of monastic lands, Littleton was now rallying to the conservative party in Church and State. The Parliament of 1529 was dissolved on April 4, 1536. For the next two Parliaments, those of June 1536 and April 1539, no returns are extant. It is certain that Littleton was neither in the Parliament of Henry 8 which met in January 1542, nor in either of the Parliaments of Edward 6. But he must have been active for Queen Mary against the pretensions of Lady Jane Grey, for upon the occasion of her coronation, on October 2, 1553, he was knighted by her (W. A. Shaw, 'Knights of England' [1906], ii. 67), and when reaction was at its height, in 1555, he was again elected member of Parliament for Staffordshire. His will was proved in 1559, when he must have been over seventy years of age ('Lichfield Wills,' &c., p. 69). His son Edward was admitted a member of the Inner Temple in 1533 ('Records of I.T.' i. 103).

<sup>5</sup> The commission for Staffordshire is not among the Letters and Papers. The names of the other commissioners are, therefore, at present unknown.



restreyned to sell their cornez to theym For their necessary sustynaunce and lyffing.

Also as concernyng beggars & vagaboundes the said comyssioners<sup>6</sup> have serched and also caused to be serched Townes & villages by nyght dyuerse tyme & have Founde almost noon so that they be avoyded & goon Furth of the shire but dyuerse they take for suspecyons of Felony which remayne in gaole ther for that that the gaole delyuerans coule not be made by cause ther was bot one justice off the quorum ther where the commission was that ther shuld be ij of the quorum.<sup>7</sup>

Also they have ordered the Townez & villagez how many ale housez shall be kept in on Towne & who shall kepe theym accordyng to thesaid comyssion and syns the same comyssion proclaimed the vnlawfull gammez be leyde downe and not vsed.

Also the seid commissioners can fynde non Ingrossours Forstallers or regratours of corne but that such as haue corne be willyng to bryng to the markett as yette.

(*Indorsed*) Stafford, Sir Anthony Fitzherbart, knight, Philippe Draycott.

#### BARETH AND OTHERS v. NEWBY.<sup>1</sup>

A. To the kyng our suffereign lord.

1528 In the yere of our lord god m<sup>1</sup> v c xxvij<sup>ti</sup><sup>2</sup> in the xix<sup>th</sup> yere of our sofreyne lord kyng henry the viij<sup>th</sup> at Oundell in the County of Northampton the viii<sup>th</sup> day of Januarii.

Sarten arteclis as here after dose folow layd in mynistred & declared by William bareth gentilman Rychard Trost gentilman Thomas Dorrant gentilman Peter Dobbess baylyff of the seyd Towne, Evisby Warsopp baylyff of the hundryth<sup>3</sup> Richard sellers Rychard Yerwall constables<sup>4</sup> John Abell merser William Euerell chandeller

<sup>6</sup> See Introduction, p. xxiii. These commissions were issued on November 18, 1527 (L. and P. iv. 3587).

<sup>7</sup> 'Quorum' is a word often mentioned in our statutes, and much used in commissions both of Justices of the Peace, and others, As for example, where a commission is directed to seven persons, or to any three of them, whereof A. B. and C. D. to be two there, A. B. and C. D. are said to be of the Quorum, because the rest can not proceed without them' (Cowel, 'Interpr.' s.v.).

<sup>1</sup> S.C.P. Hen. 8, Bundle xxii. No. 340. Introd. p. xxiv.

<sup>2</sup> Presumably to be read 'octo viginti.'

<sup>3</sup> Those Hundreds which had not fallen into private hands were in the king's hands, and by the Statute 14 Ed. 3, c. 9, Hundreds, except such as then were of estate in fee, were rejoined, as to the bailiwicks, to the counties, and all grants made of the bailiwick of Hundreds since that statute are void, and the making of the bailiffs belongs to the sheriff (Coke, 4 Inst. 267). The sheriff farmed them to bailiffs. The bailiff presided in the Hundred Court, and, after paying his rent, made what gain he could from fees and amerce-



John bockeller feschemonger William Stokewell draper with a c. persons mo and<sup>5</sup> nede requere of ye Towne & country complayning ayenst one James Newby dwelyng in the same Towne of Oundell for a regater<sup>6</sup> and forstaller of the market contrary to the kynges lawse, and also hys most gracijs commysyon the whyche was delygenly poplesed<sup>7</sup> and declared in the opyn market in the sayd Towne by the balyff ther of the vij<sup>th</sup> day of December to the grett syngler joye and comford to the kynges pore subgettes, and that no maner of person shold be haue hym selfe not to the contrary in payne of the kynges hye desplesure, of the wyche articles & contemptes the sayed James Newby hath bene accused before the seyde commysyoners & no reformacyon nor amendement hade the seyde Newby is such a Froward and contemptuosse person that very few or non honest men be glad to medell with hym.

Imprimis the fyrst market day next ensuyng after the seyde proclamacyon so proclamyd the seyde James Newby havynge good plenty of grayne wold not send no part ther of in to the market where by the kynges pore subgettes myght have bene releved for ther money, but he went in to his garnares the same day & ther sold and delyuered vnto Strawngers dwelyng in owt shyers a grett part of the grayne in the syght of the market the wyche was and yll insampull vnto all other Regraters forstallers & other offenders of the kynges lawse, the seyde James Newby hauynge perfyt knowlege of the seyde commysyon and the same opynly hard cryed & declared in the seyde market.

Also the second maket<sup>8</sup> day beyng the xxj<sup>th</sup> day of the seyde month ther was the lord brudenell<sup>9</sup> Sir owmefracy Stafford<sup>10</sup> knight Sir Thomas

ments (Pollock and Maitland, 'Hist. Eng. Law,' i. 544). By a statute of 1330 (4 Ed. 3, c. 9) no man could be appointed bailiff unless he had sufficient lands in the place ('sil neit terre suffisammenteslieus'). The rents exacted by the sheriffs were so high at this time that it was complained that the bailiffs could not levy them 'except by extortion and duress done upon the people.' The sheriffs were accordingly, by an Act of the same session (4 Ed. 3, c. 15), ordered to let the Hundreds at the old rents. 'Bailiffs of Hundreds are officers appointed over those respective districts by the sheriffs to collect fines therein, to summon juries, to attend the judges and justices at the assizes and quarter sessions, and also to execute writs and process in the several Hundreds (W. Blackstone, 'Commentaries,' 2nd ed. 1766, i. 345).

<sup>4</sup> See p. 124, n. 13.

<sup>5</sup> If.

<sup>6</sup> Regrator.

<sup>7</sup> Published.

<sup>8</sup> Sic. The dates show that the market-day was Saturday. See J. J. Bond's 'Handy-Book for Verifying Dates' [4th ed. 1889], pp. 56, 396. Cp. also document C, p. 177, *infra*.

<sup>9</sup> Robert Brudenell, Chief Justice of the Court of Common Pleas, April 13, 1521. He was a landowner at Dene and Glapthorpe, Northants, and was buried at Dene (1531) ('Dict. Nat. Biog.'). Cp. p. 6, n. 3.

<sup>10</sup> Sir Humphrey Stafford, of Blatherwick and Dodford, Northants, was son of Humphrey Stafford, of Grafton, Worcestershire, a prominent Yorkist, by Catherine daughter of Sir John Fray. He was born May 1, 1478 (Inq. post mortem, Hen. 7,

Tressam knight<sup>11</sup> Edward Montegu gentelman<sup>12</sup> Rycharde Tressam gentelman<sup>13</sup> Mr Conyars<sup>14</sup> John Turner gentelman<sup>15</sup> George Quarles

I. 224, 225). He inherited Blatherwick and Dodford as nephew and heir of his uncle, Thomas Stafford, who died August 15, 1517. The two brothers, Humphrey and Thomas Stafford, joined in the revolt of Lord Lovell—'Lovell that dog'—in 1486. Upon the collapse of the rebellion they were both taken. Humphrey was attainted and hanged at Tyburn (July 8, 1 Hen. 7, 1486. See Inq. p. m. Hen. 7, I. 224, 225); Thomas Stafford was pardoned, as having been induced by his brother to enter into rebellion ('Polydore Vergil' [ed. Gandavi, 1557], lib. xxvi. pp. 1442-43). In 1514 Humphrey Stafford, after eleven years' effort (see Rot. Parl. vi. 526, a) succeeded in having his father's attainder reversed, and in obtaining restitution of all such of his large estates as had not been granted by the Crown; such lands as had been granted for a term to be restored upon expiration of the term (5 Hen. 8, c. 13, 'The restitution of Humfrey Stafford'). Accordingly, in 1515, we find the Crown restoring to him lands valued at 36*l.* 1*s.* 7*d.* (L. and P. Hen. 8, ii. 1363, ii.). During his uncle's lifetime he is described as of Codered (Cottered), Herts (ib. ii. 1899, 3281, 4143); a manor inherited by him, with Rushden, from his mother Catherine Fray (Inq. p. m. Hen. 7, 225, 230). He was appointed a commissioner of subsidy for Northamptonshire in 1523 (L. and P. iii. p. 1366; ib. iv. p. 239). He first appears on the commission of the peace for that county in December 1524 (ib. 961, 12). His activity as a commissioner of subsidy perhaps earned him the reward of a knighthood, for in November 1526, as 'Sir Humphrey Stafford,' he was pricked sheriff of Northants (ib. iv. 2672). His appointment on the commission here mentioned was dated November 18, 1527 (ib. 3587). He was 'founder'—that is, patron by descent from the founder—of the Priory of Austin Canons at Worspring, or Worspring, Somerset, founded by William de Courteneye in 1210 (Dugdale, 'Monast.' vi. 414). At the dissolution his son Humphrey wrote on behalf of his father to Cromwell, asking for a grant of it for Sir Humphrey, and estimating its value at that of the priory of Fynshed, Northants, which he solicits for himself, viz.: 56*l.* 10*s.* 11½*d.*, April 9, 1536 (L. and P. x. 643). This conscientious estimate was not borne out by the actual revenue of either house. That of Worspring was found to amount to 91*l.* 14*s.* 3*d.*, that of Fynshed to 62*l.* 16*s.* (Dugdale, vi. 416, 451). After the northern rebellion of 1536-37, Sir Humphrey Staf-

ford was (April 28, 1537) nominated upon a special commission to try the Lincolnshire prisoners, among them Lord Hussey (L. and P. xii. i. 1207 [5]). His signature is, however, wanting to those of the other commissioners attesting the finding of a true bill by the grand jury (ib. [12]). He appears to have remained in Lincolnshire, perhaps to repress disaffection, to the end of the year (ib. xii. ii. 1236). When in 1539 musters were being taken for the defence of the country against foreign invasion, Sir Humphrey Stafford of 'Blathewyke' was returned as able to bring '27 servants' into the field (April 30, 1539) (ib. xiv. i. p. 281). Nevertheless, there are signs that he was not really trusted by Henry 8. The Letters and Papers shew that he was much associated with the Yorkist families, whom the king distrusted, and, notwithstanding his position, he was never on the commission of the peace for Northants after February 1526 (ib. iv. 2002 [11]), nor on the commission of musters. Nor was he restored to the full possession of his father's estates in Worcestershire, of the gift of which Sir Gilbert Talbot obtained a confirmation by Act of Parliament in 1542 (ib. xvii. 28, p. 14). His son failed to obtain the Priory of Fynshed (ib. 362 [2]). On the other hand, his son was knighted, perhaps by way of compensation, about 1543 (ib. xviii. pp. 466, 468). Sir Humphrey Stafford, the father, died in 1546 (Esc. 37 Hen. 8), at the age of 68 (G. Baker, 'Hist. of Northamptonshire' [1822-30], i. 356). His will was proved in that year (J. C. C. Smith, 'Index to Canterbury Wills'). He married Margaret, daughter of Sir John Fogge (Baker, l.s.c.).

<sup>11</sup> Sir Thomas Tressam, or Tresham, eldest son of John Tresham, of Rushton, Northants, by Elizabeth, daughter of Sir James Harrington, of Hornby, Lancashire, and grandson of Sir Thomas Tresham, the Speaker of the House of Commons, who was beheaded in 1471. He was sheriff of Northamptonshire in 1524-26, in 1539-40, in 1548-49, and 1555-56. This mention of him antedates his knighthood by at least two years, the earliest mention of it hitherto known being in 1530 (see 'Dict. Nat. Biog.'). He was an adherent of Queen Mary, who created him Grand Prior of the restored order of St. John of Jerusalem in England in 1557. He died March 8, 1559. He left two sons, John and William, by his first wife Anne, daughter of Sir William (afterwards Lord) Parr of Horton. By his second wife Lettice widow of Sir Robert



Lee, who also predeceased him, he left no issue. For further particulars see 'Dict. Nat. Biog.'

<sup>12</sup> Edward Montegu, Montagu &c., second son of Thomas Montagu, lord of the manors of Hanging Houghton and Hemington, Northants, by Agnes, daughter of William Dudley, of Clopton, Northants. He was called to the Bar at the Middle Temple, where he was autumn reader in 1524 and 1531, in which last year he was called serjeant-at-law. He was knighted on October 18, 1537, and made Chief Justice of the King's Bench on January 21, 1539, from which he was transferred to the Chief Justiceship of the Common Pleas on November 6, 1545. He was disgraced, committed to the Tower, and fined on the accession of Mary for having draughted the clauses in Edward 6's will altering the succession in favour of Lady Jane Grey. He died at his manor of Boughton, Northants, on February 10, 1557. His eldest son Edward, by his third wife Ellen, daughter of John Roper, Attorney-General to Henry 8, was father of Edward, first Baron Montagu of Boughton. For further particulars see 'Dict. Nat. Biog.'

<sup>13</sup> Richard Tressam, or Tresham, of Newton, Northants, son of Richard Tresham by Rose, daughter and heir of Thomas Billinge, grandson of Sir Thomas Billinge, of Ashwell, Northants, who had been Chief Justice of the King's Bench 1469-81 (Bridges, Northants, ii. 323). Richard Tresham, the commissioner for the subsidy for Northants in 1523-24, was probably the same as the commissioner here mentioned (L. and P. Hen. 8, iii. p. 1366, iv. p. 239). His return as commissioner is for the Hundreds of Corby and Rothwell, in the former of which his house was (ib. iv. 3587, 5, v. Bridges, l.s.c.). In February 1532 he was nominated on the Commission of the Peace for the county (L. and P. v. 838, 14). He was knighted in 1535 or 1536 (ib. x. 1257 x., being styled 'Sir' Richard in the commission of the peace for Northants dated July 8, 1536 (ib. xi. 202, 13). As his name does not, from this date, recur in the Letters and Papers, it may be inferred that he died shortly afterwards. He married Isabel, daughter of Fulk Wodhull, soi-disant Lord Wodhull, or Wuhull (Bridges, i. 205, cf. G. E. C., 'Complete Peerage,' ed. 1898; Baker, i. viii. 35, 712). He left several sons (Bridges, ii. 323; Baker, i. 126).

<sup>14</sup> This person, as we know from the commission of November 18, 1527 (L. and P. iv. 3587), was Francis Conyers. He was the eldest son of Reginald Coniers, or Conyers of Wakerley, who had acquired it by fine in 1500 from Sir Thomas West, Lord de la Warr (Bridges, ii. 343). Reginald

Conyers was auditor of the receivers, bailiffs and tenants of Lord de la Warr's extensive estates (ib.), and was perhaps the person of that name admitted a member of Lincoln's Inn in Hilary Term, 1482. This identification is the more probable in that Francis Conyers was admitted to the same Inn on October 28, 1512 ('Lincoln's Inn Admission Register' [1896], i. 22, 35). Francis Conyers was one of the commissioners for the subsidy for Northants in 1523-24 (L. and P. iii. p. 1366, iv. p. 239). At a Council held in Lincoln's Inn on June 24, 1524, it was resolved by the Governing Body of the Inn that 'for dyueres deseyzez and syckenez that Christofer Conyars and Frauncez be infected with, that they shall not combe in to the howse vnto suche tyme as they do knowe their further pleasure of my Masters of the Benche' &c. ('Black Books of Lincoln's Inn' [1897], i. 209). In a letter of which Francis Conyers is one of the signatories addressed to Cromwell on March 3, 1539, a clue is given to the leading informer in the present case. Sir Robert Kyrkeham, Francis Conyers and John Russell, priest, had been commissioned to inquire 'whether a house called a provostry, in Cotherstoke [Cotterstock, Northants] had been altered from its first institution and so forfeited to the King' (L. and P. xiv. i. 427). This commission had been brought to them by William Barreth, 'King's servant,' who appears to have been a king's messenger, was perhaps a native of that part of the country, and is identified at the end of this document with the leading informer. When the musters for defence against foreign invasion were being taken in 1539, Wakerley is set down as able to furnish fourteen men, with the note that 'Francis Conyers and his servant have harness' (ib. p. 281). The parish register of Wakerley contains an entry of the baptism of a daughter, Mary, on November 23, 1540 ('Northamptonshire Notes and Queries' [1890], iii. 15). Among the burials is that of Mr. Francis Connyers, May 1, 1562, and that of Mr. Francis Connyers, Jr., on September 11, 1572 (ib. 210). According to Bridges, however, Francis Conyers died in 3 and 4 Philip and Mary (1556-57) (Esc. ann. 3 and 4 Phil. and Mar. n. 132, p. 2; Bridges, ii. 343).

<sup>15</sup> John Turner, spelt in the commission 'Turnour' (L. and P. iv. 3587, 2), described in his will as of Walcoote, of the parish of Barnack, Northants, acquired a moiety of the manor of Barnack by fine from Anthony Luffewike in 1538 (Bridges, ii. 492). On May 18, 1514, a licence was granted to Sir John Sharp to alienate the manor of Brokedisshehalle, alias Brokdissh, in Burston, Norfolk, to sixteen trustees.



gentilman<sup>16</sup> all thes setting ther beyng the kynges commyssyoners cawsed the seyd commyssyon for to be declared the same day in the

Among them are John 'Turnour,' Robert Broune of Walcote, senior, Guthlac Overton, and George and Francis Quarles (L. and P. Hen. 8, i. 5096). The juxtaposition of these names makes strongly for the identification of this commissioner with this feoffee and with John Turner, auditor of the duchy of Cornwall, &c. The names of Walcote and Quarles associate him with Northamptonshire. John Turnour and Gutblac Overton were on May 8, 1514, grantees in survivorship of the offices of auditors of the duchy of Cornwall (ib. 5050); and John Turnor, presumably the same individual, was with Robert Browne appointed on July 2, 1513, bailiff and receiver of the lordship and manor of Ailewarton and Pensance, Cornwall, then in the king's hands (ib. 4321). John Turner had held some office under Henry 7, for in November 1512 proceedings were taken against him, in common with many other debtors to the Crown, for nonpayment (ib. 3497). He obtained on June 13, 1513, jointly with George Quarles, the auditorship 'of Warwyke's, Salysbury's and Spencer's lands' in the hands of the Crown (ib. 4223). He and Overton were appointed on September 20, 1514, members of a commission, at the head of which was Hugh Oldham, bishop of Exeter, for the assessment of all the possessions of the duchy of Cornwall in Cornwall and Devon (ib. 5431). Both John Turnour and George Quarles were nominated on the commission of sewers for Northants, Cambs, and Lincolnshire (May 22, 1515, ib. ii. 495), and this is fairly conclusive in favour of the identification. Turnour and Quarles, in their capacity of commissioners for the view of corn, &c., made their returns for the Hundreds of Nassaburgh and Willibrook, in the former of which Walcote is situate (ib. iv. 3712, ii.). In 1534 Turnour was a commissioner together with one of his colleagues of 1527, Edward Mountague, serjeant-at-law, and Thomas Brudenell, to make an inquisition post mortem upon the lands and heir of Roger Floure, of Northants (ib. vii. 922, 19). He was appointed auditor of the commission of sewers for the county on January 30, 1535 (ib. viii. 149, 46). He was nominated upon a commission of jail delivery—the jail of the former Abbots—at Peterborough on February 16, 1540 (ib. xv. 282, 67), and again in 1541 (xvi. 580, 22), and was placed on the commission of the peace for the liberty of Peterborough (ib. xv. 282, 68, Feb. 16, 1540). He obtained on March 28, 1542, a lease of lands in Apthorp, Northants, and elsewhere

in the county recently forfeited to the Crown (ib. xvii. 220, 94). He was also lord of the manor of Lolham in the Hundred of Nassaburgh (Bridges, ii. 526). His will shows that he held land at 'Talyngton,' Lincolnshire ('Index to Canterbury Wills'). He died in 1542, in which year his will was proved. He was succeeded in his moiety of the manor of Barnack by Henry Turner, his heir and next-of-kin (Bridges, ii. 492).

<sup>16</sup> George Quarles, of Ufford, Northants, was another official, and, as has been seen, closely associated with his neighbour and colleague, John Turnour. He appears to have had an employment in the reign of Henry 7 in connexion with the estates of that king's mother, the lady Margaret, Countess of Richmond and Derby (L. and P. Hen. 8, i. 235), and on September 23, 1509, was appointed auditor of them (ib. 1866). He was, together with John Turnour, employed by the Crown to survey the lordship of Shenton, Leicestershire, in 1518 (ib. ii. p. 1480). On March 27 in the same year he obtained a lease of the site of the manor of Westedepying, Lincolnshire, and lands near the manor, formerly belonging to the lady Margaret (ib. 4037). He was a commissioner for the subsidy for Northamptonshire in 1523-24 (ib. iii. p. 1366; iv. p. 547). In a grant of the wardship of John, son and heir of Edward Elyott, of Cutland, Devon, dated February 22, 1524, he is styled 'one of the king's auditors' (ib. iv. 137, 22). His lease of lands in Lincolnshire led to his nomination on March 2 of the same year upon the commission of sewers for that county (ib. 213). Upon the occasion of the collection in 1524 of a forced loan towards the expenses of the war with France, Quarles is returned with eight others belonging to Northants as contributing the large sum of 2510*l.* 10*s.* (ib. p. 83). His return to this commission, Sir William Fitzwilliam, senior, and John Turnor, John Mollesworth and Edward Grenehall being his co-signatories, was made on December 30, 1527 (ib. 3712). He was again employed in connexion with the raising of a loan and subsidy in 1534 (ib. vii. 1496). In the year following he was nominated auditor of the commission of sewers for Northants (ib. viii. 149, 46). He appears to have died early in 1538, his auditorship being on February 25 of that year transferred to Robert Wyngfeld (ib. xiii. i. 646, 15; cf. ib. 384, 35). As George Quarle, of Ufford, his will is indexed among the Northamptonshire and Rutland wills

opyn market for the reformatioun of all offenders of the kynges lawes. The seyde James Newby heryng this wold not reforme hymselfe nother for to bryng nor yet to send no part of his grayne that day to the market for to relefe the kynges pore subgetes withall for ther money, but in contynent he made his awant,<sup>17</sup> how that he wold not sell no part of his grayn to his neyghtburs for the seyde commysshioners nor for no mans desyer so long as the strangers wold by yt. Wytnes Thomas Dorrant gentilman and phelypp powell yoman, the wych aunswered and sayn vntil hym that he dyd nawght in his report making.

Also of the iij<sup>th</sup> market day beyng the xxviii<sup>th</sup> day of the seyde month the seyde James Newby wold nother send nor bryng no part of his grayn forth to the market that day, more over the forseide William bareth went in to the market to by corne for his howshold & ther he hard the pore peple make grett lamentacyon for corne, that he petyd them sore in his hart ther was x or xij byares ayenst one seller he sawe the market so bare of grayn & the grett lamentacyon and cryng of the peple he went to the balyff and ther commaundyd hym in gods name and the kynges<sup>18</sup> that he wold go to James Newby, and so far to requere hym in lyke maner to send forth part of hys grayne in to the market to Releve the pore pepull withall for ther money of the same the balyff went hym selfe and also sent his seruant twyse or thrise to the sayde James Newbys howse with thys commaundement and he wold not be spokyn with all nor yet send no part of his grayne to the market that day. Also then immediatly after the forseide William bareth accused the seyde James Newby of all the forseide artycules befor sir Thomas Tressam knyght and Edward Mowntygue gentylman setting in the seyde Towne of Oundell in commysseyon at the kynges commaundement and before all the awdyens ther beyng present before the seyde commysseyoners. And Immediatly as sone as the seyde William bareth had thus acused hym the seyde James Newby of a hye corage aunsward the seyde William Bareth with thys thretyng wordes

(Book E. 1531-38; Calendar, ed. by W. P. W. Phillimore, p. 28). He married Isabel, daughter of Robert Browne, Chamberlain of the Exchequer, by Isabel, daughter and heir of Sir John Sharpe, Knt. (Bridges, ii. 497). Both he (George Quareles) and John Turnour were Sharpe's executors, which suggests that the two may have been related, for Quarles's wife's brother, Robert Browne, was 'of Walcot' (Bridges, l.c.; L. and P. iii. 779, 2). Quarles was great-grandfather of the poet Francis Quarles, his grandson, James Quarles,

father of the poet, having become lord of the manor of Stewards, in the liberty of Havering, Essex (P. Morant, 'Hist. of Essex,' 1768, i. 67).

<sup>17</sup> Defiance: cf. Shakspeare, 'Henry VIII.' II. iii. 'To give her the avaunt' (J. A. H. Murray, 'Eng. Dict.' s.v.)

<sup>18</sup> William Bareth was not a commissioner to take measures against the scarcity. His venturing to give a command in the king's name was in his capacity of the 'King's servant.' See *infra*.



he myght ryght well a holden his pese for anythyng he shall gayne by it at lynght he wold warrant hym. And yff you wold lett me alone and put me to no besynes I wold bake serten pees and barley and so geue yet to the pore foks in almes. Ye <sup>19</sup> wold you do so sayd the same William Barreth that is not suffycyent Recompense for your mysdemer ayenst the Kyngs grace nor I thynk it wol not so be alowed at lynght,<sup>20</sup> no sayd the commysyoner James Newby you most bryng your grayne forth to the market by the Kyngs commaundment. Also it is well proved of later tyme by the forseyd named persons and well knowen within the Towne of Oundell and the countre that the seyde James Newby dyd throw owt of his garners xx<sup>ti</sup> or xxx<sup>ti</sup> quarters of malte in to dychys and other places of the bake syde of the Towne the wyche malte was etten with wewells <sup>21</sup> he kept it so long that nother best nor folle <sup>22</sup> wold ett of it whych myght have bene better applyed to the sustynauns of gods pepull yff it had bene browght to the market in tyme.

Also the seyde James Newby is knowen for a commen gamener with Tabull play and dyse and Cards by the forseyd Named persones For ther is no seruyng man nor Straunger that comyth to the Towne but he wol seke hym from howse to howse and from Taverne to Taverne for to have hym to play with hym and so to get hys money with crafte and suttully.

More over the seyde James sayth that yff ther be any maner of person that wol bryng to hym anny manner of man that will play with hym at any of thes games xx<sup>ti</sup> nobuls he will gyff any such person so doying a nobul or x<sup>d</sup> for his labur etc.<sup>23</sup>

Also in the xx<sup>ti</sup> yere of our Souereyng lord Kyng henry the viii<sup>th</sup> the xvi day of June last past <sup>24</sup> the seyde James Newby calyd in to Robert Boloks howse barber of the seyde Towne of Oundell one Peter brawnche of fordam in the County of Cambreche and ther gate of hym v nobulls <sup>25</sup> in the presens of John Barnard, Tanner, Robert Bollok barber and Alissander Synson<sup>26</sup> myller with dyvers other mo and thus with such sutyll means and crafty wayes the seyde James doth use hymselfe unto thys day vnponyssyd the wyche causith dyvers men and men seruaunts both of the Towne and the Countre to folow hys wayes contrary to the Kings lawse etc.

<sup>19</sup> Yea.

<sup>20</sup> Length, i.e. 'in the long run.'

<sup>21</sup> Weevils.

<sup>22</sup> Fowl.

<sup>23</sup> This charge is brought because the commissioners were specially authorised

to put 'into execution the statute of Winchester against vagabonds and unlawful games.' L. and P. iv. 3587.

<sup>24</sup> 1528.

<sup>25</sup> 33s. 4d.

<sup>26</sup> Sic.



Also the xxvi<sup>th</sup> day of the seyd month the sayd James Newby sold and delyuered a serten sum of malte vnto Alysaundre Symson the wyche is well known both for a forstaller & arregater<sup>27</sup> of the market the seyd Alyssandre Symson, James Newby and one Thomas Browne symyth & one Robert Welles have thus all iiij eusyd & occupyd the market & in haunsyd the pryse of grayne from one to another all thys dere seasson & thus dayly they do in grosse & by grett sumes of grayne & do sell both old stufe & also of new corn that groith on the erth<sup>28</sup> that the pryse of grayne is in haunsed by ther meanis every market day heyer & heyer. And also of late the seyd James Newby with hys company hase bene in Cambrege shyare & ther the<sup>26</sup> have bowght grett sumes of grayne & to<sup>26</sup> kepe it to heyten the prise And also they haue made dyvers men owt of that cuntre in to North-aumton shyre and have bowght serten sumes of grayne ther and thus they do intende to kepe vp the prise morover the seyd James Newby sayes now thett he well nat lett yt<sup>29</sup> for no mans sayeng nor yet desyer but that the seyd William had bene as good for to a compleyned of my lord bredewell<sup>30</sup> as to a compleyned of hym he wold warrant hym. And that many a good howsholder doth & schall breke vp ther howsholds & put a way ther seruants besydes many a pore creatur that ar famyssed for lak of sustynans & every day doth more and more And as for the seyd Alysandre Symson<sup>31</sup> haue in hys holdyng iiij<sup>or</sup> grett fermeholds<sup>32</sup> of watter mylles that wold susteyne iiij<sup>or</sup> honest mens leuyngs.

Also the xii<sup>th</sup> day of Julii last past the seyd William bareth was at

<sup>27</sup> A regrator. See p. 218, n. 15.

<sup>28</sup> Presumably this would be the offence of forestalling. At any rate, it was probably alleged as such. Executory contracts or contracts for 'futures' had been expressly prohibited for ten years in the case of wool by 4 Hen. 7, c. 11 (1489), afterwards revived by 22 Hen. 8, c. 1 (1531). About the year 1529, the precise date being unknown, a bill was draughted against the purchase of 'corn and grayn or it be growen.' MS. R.O., L. and P. vii. 67.

<sup>29</sup> Cease.

<sup>30</sup> Brudenell. His seat of Dene or Deene is about eight miles N.W. of Oundle. There was point in this, for the scarcity was commonly imputed to the inclosures, and in 1517 the judge had been returned by the commissioners for inclosures as having committed an offence against the Act of 1489 (4 Hen. 7, c. 19) by allowing a house at Oundle to fall into decay, and converting 200 acres arable to pasture. See I. S. Leadam, 'Domesday of Inclosures,'

1517-18 (1897), i. 281. Cf. also n. 32 *infra*.

<sup>31</sup> 'He' omitted.

<sup>32</sup> An offence against the declared policy of the Government rather than against any statute. In 1514 a proclamation against engrossing farms recited that this and the conversion of arable to pasture were the causes of the prevalent scarcity of grain and victuals. Nevertheless Henry 8, following the precedent of the Act of Henry 7 'agaynst pullyng down of Townes' (4 Hen. 7, c. 19), attacked the practice of engrossing, not by direct prohibition, but by insisting that the farm-houses should be maintained and the land again put in tillage, which would, it was supposed, render it unprofitable. The Acts of 1515, 6 Hen. 8, c. 5, and 7 Hen. 8, c. 1, did not enforce the proclamation of the previous year against engrossing, nor was it until 1534, in the 'Acte concernyng Fermes and Shepe,' that the legislature forbade any person to take more than two farms (25 Hen. 8, c. 13, § 14).

one Robert bowlokes howse otherwyse called Robert barber of the seyde Towne the seyde James com in to the seyde William facyng<sup>33</sup> and quarelyng with on setting<sup>34</sup> wordes of defyaunce & called the seyde William false harlett<sup>35</sup> for be cause the seyde William had complayned of hym befor the seyde Commyssyoners for a Regrater & a forstaller of the marketts. And so the seyde James sowre<sup>36</sup> by our lords fleche & hys blod that except the seyde William wold goo and complayne of the seyde James to the kyng & his counsell the seyde James wold complayne of the seyde William for a consyller & a counsell keper of the seyde James mysdemener And with that the seyde James come vyolently towards the seyde William for to a strykowen<sup>37</sup> hym & so defyed hym & seyde he was hys fellow & hys bettour all thought<sup>38</sup> he was the kyngs seruant<sup>39</sup> the seyde James wold he knew it and seyde it becom not the seyde William to be so hardy to complayne of hym as he dyd

wytnes Master Owmfrey Morys Vycar of the seyde Towne<sup>40</sup> Sir William Morys prest, Robert bolke Harry Comfort & other.

(Indorsed) Bylla pro Jacobo Newby coram concilio Regis.

\* 41

versus Newby.

Juratum per latorem.<sup>42</sup>

B.<sup>1</sup> To the kyng our Suffereign lord.

Also of late tyme the seyde James Newby hath dysquyeted the most part of all his Neyburus with \* \* \* \* 2 Oundell & hath made such deuysyon amonks them that no man can tell of of xl yeres before hys \* \* \* \* 2

First the seyde James dyd brek with all the prests of the church with onsetting words of defyance & sayth how \* \* \* \* 2 he will teche them all ther Ordynary<sup>3</sup> etc.

<sup>33</sup> To face, 'to confront with assurance or impudence; to brave, bully' (Murray, 'Eng. Dict.' s.v.).

<sup>34</sup> 'Unsetting' is a word which frequently occurs in pleadings of this date; connected with 'unsete,' i.e. unsuitable.

<sup>35</sup> The original meaning, from the old French 'herlot,' lad, was knave, rogue, vagabond, &c. (Murray, 'Eng. Dict.' s.v. 'harlot').

<sup>36</sup> Swore.

<sup>37</sup> Have stricken.

<sup>38</sup> Although.

<sup>39</sup> See n. 14, supra.

<sup>40</sup> Humfrey Morys, or Morris, admitted Bachelor of Civil Law at Oxford, July 4, 1513 (J. Foster, 'Alumni Oxonienses' [1891], iii. sub 'Morris'). He was presented to the vicarage of Oundle by the Abbot of Peterborough on January 8, 1517 (Bridges, ii. 408). On July 17, 1531, he proceeded

Bachelor of Canon Law at Oxford (Foster, *ibid.*). He would probably belong to the monastery of Peterborough, and, as a Benedictine, would be a member of one of the three colleges of that order in Oxford, viz. Gloucester, Durham or Canterbury. (A. Wood [ed. J. Gutch, 1796], 'University of Oxford,' vol. ii. bk. ii. p. 734).

<sup>41</sup> MS. torn.

<sup>42</sup> The informer was presumably William Bareth. 'Lator' in the sense of 'delator,' an informer, is not classical, neither does it occur in Du Cange's glossary.

<sup>1</sup> Articles on a separate sheet, but in the same handwriting. <sup>2</sup> MS. torn.

<sup>3</sup> 'A rule prescribing a certain . . . course of action,' especially with reference to the mass. The sense is 'teach them how to behave as clergymen.'

Also the seyde James hath brokyn with all the Substance of his Neyburus within the seyde Towne besydes and is at grett varyance with them as here after folowith ther names etc.

Inprimis With Mr Umfrey Moryce vycar of the seyde Towne Sir Thomas Bowteller <sup>4</sup> Sir William Moryce prest Jaram Alday Rychard Trust Thomas Durrant gentilmen John abell peter dobbs William Stokewell Thomas Nycolles Robert Ryppon James powes William loftys Robert bolloke with divers other moo within the seyde Towne and callys them Cherlls and knauves and thretys them euery day with prevy sells <sup>5</sup> and so takys suerty of pesse <sup>6</sup> of them that no man dare kownt for hym <sup>7</sup> and says he hasse a M<sup>l</sup> pownd to spend in the law ayenst hys Neyburus and beds them to do to hym the best and the worst that they can For he setts not a Strawe by them all etc.

C. The Answer of James Newby to the Bill of Articles ministered and declared by William Barrett, Thomas Doraunte And in the mames <sup>1</sup> of divers others.

The saide James saythe that the saide Bill of Articles is Incerten Insufficient <sup>2</sup> and the more parte therof vntrew the Aduauntage of All the premissis to him sauid The saide James saythe that as to the Regrating forstallyng and Ingrosing and Inhauncyng of the price of corne And disobeing of Any commaundement gyvyn by the saide commyssioners or offendyng Anything contenyd in the saide commyssion of corne And all other misdemenors surmysyd in the saide Bill He is therof and of euery parte of the same not gylty And further the saide James saythe that he hathe lawfully Bought corne And hathe soulded moche of it and Intendyth to sell the Reste and hathe seruyd the markets there excepte one market daye which was the Saturdaye in Crystenmas weke laste paste And neuer faylyd market Daye solong as he hadd any corne to sell without that that he hathe Bought Any corne to the Intente to Rize the price therof or Thronne xx<sup>ti</sup> or xxx<sup>ti</sup> quarters of maulte into Dyches as is surmisyd in the saide Bill of Articles And as to the deysyng and cardyng

<sup>4</sup> Presumably a clerical graduate. A Thomas Butler was a Fellow of New College, Oxford, 1506-10, and took his B.A. degree on March 4, 1511 (Foster).

<sup>5</sup> Seals. A writ of Privy Seal was the statutory process of the Star Chamber under the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1). See further 'Select Cases in the Star Chamber' (S.S. 1902), pp. xix-xxvii.

<sup>6</sup> Newby's name does not appear on the commissions of the peace for Northants. The meaning must be that he has them bound over to keep the peace.

<sup>7</sup> Qu. in the sense 'take account for, that is, notice his proceedings.

<sup>1</sup> Sic.

<sup>2</sup> On these pleas in demurrer see 'Select Cases in the Star Chamber' (S.S. 1902), pp. xxix, xxxi.



he saythe that he hathe playde for his pastyme without that that he vseth himselfe in plaing in Any suche maner as is surmysyd in the saide Bill And without that that Any other thing materyall contenyd in the saide Bill of Articles not Answeryd trauersyd confessid and Auoided is trew All which matters the saide James Newby is redy to proue as this courte will awarde and praythe to be dismyssyd out of the same with his Reasonable costs and Damages for his Wrongfull vexacion & trouble in this behalfe sustenyd.

(Indorsed) Jur[atum]. xxiiij<sup>o</sup> Nouembri anno xx<sup>mo</sup>.<sup>3</sup>

YAKESLEY AND HOLME, INHABITANTS OF *v.* ALWARD  
AND BRANSTON.<sup>1</sup>

- 1529 A. To the most Reuerend Fader in god Thomas lord Cardinall legate a latere arch busshop of Yorke Chaunceler and prymate of Englund.<sup>2</sup>

In their moost humble wise complaynyngly shewith to your grace<sup>3</sup> your daily oratours John lee and William Smyth constables<sup>4</sup> of the town of Yakesley Richard Betrych Robert Clapthorne Nicholas Pierson John Crowther of the same William Gylham of holme William Suarsedale Constable of the same Richard hanson Thomas Baker, John Gardnyner William Nutcorn Richard Can and William Somersham of the same in their own namys and in the namys and by thassent consent and hole agreament of them all, and also at the speciall desire of all the pore inhabitauntes of the said Townys of Yakesley<sup>5</sup> and Holme<sup>6</sup> and othre. That where of late the king our moost redoubted souerain lord having knoulege of the great scarnesse<sup>7</sup>

<sup>3</sup> 1528.

<sup>1</sup> S.C.P. Hen. 8, Bundle 17, No. 344. Introd. p. xxv.

<sup>2</sup> Nominated Archbisshop of York and Primate of England by Bull of Leo 10 September 15, 1514, cardinal September 10, 1515, Chancellor December 24, 1515, and legate a latere May 17, 1518.

<sup>3</sup> As prescribed by the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1).

<sup>4</sup> On constables see p. 123, n. 5.

<sup>5</sup> Yakesley, now Yaxley, in Norman Cross Hundred, North Huntingdonshire, four miles south of Peterborough. The folio edition of Domesday (1783-1816), i. 205, reads 'Lacheslei' as the name of the

place; but a scrutiny of the official facsimile of 1863 shews, on a comparison of the first letter with the first letter of 'Ibi,' which repeatedly occurs, that the name was written 'Lacheslei,' as it would probably sound to a Norman clerk.

<sup>6</sup> Holme, a village a little more than three miles south of Yaxley.

<sup>7</sup> Sic; for 'scarceness.' In 1527-28 wheat was 'very dear on the Eastern side of England, rising to 18s. 3d. at Cambridge and 18s. 8d. at Bardney' (Rogers, 'Hist. Agr. and Prices,' iv. 256). Holinshead's 'Chronicle' (p. 722), speaking of London, says: 'In the beginning of their want wheat was onelie at 15/ a quarter, and from thence

of corne within this his Realme his grace moved with tender zeale and love to his true and faithfull subgiettes of his moost gracious disposition Willing speding remedy for the same caused proclamacions to be made within euery Shyre of this his said Realme commaunding and straitly charging by the same, that no man shuld forstall regrate or ingroce any Corne within this his Realme vpon certayn penalties within the same lymytted.<sup>8</sup> So it is gracious lord that nowe of late oon Thomas Alward<sup>9</sup> of Lynne in the Countie of Norffolk and Christofre Branston otherwise called Glover<sup>10</sup> of the same nothing feryng the kinges gracious proclamacion made against Forstallers Regratours and ingrocers of corne, nor regardyng the comon welthe of the Realme, nor the necessary and nedefull sustentacion of the kinges pore subgiettes, haue of late tyme that is to say syns the Feast of saint michell tharchangell in the xx<sup>ti</sup> yere of the Raigne of our souerain lord the king that now is<sup>11</sup> at sundry tymes in diuers places within the Countie of huntynghton and within viij miles compas haue bought forstallyd and ingroced pease beanes barley and otes to the nombre of ix<sup>c</sup> and lxxx comes<sup>12</sup> wherof they haue caryed and conveyed parte out of the said shyre into the parties of Norffolk and the residue wold have caryed and conveyed yf they had not been stayed at oure complaynt and desire.<sup>13</sup> And ymmediatly after that the said Alward and Branston had soo bought and ingroced the said graynes, bothe pease and beanys<sup>14</sup> dyd aryse ij s. in euery quarter within the space of three market dayes to the great hynderaunce and discomforte of the kinges pore true subgiettes so that if there had not been hasty remedy

it rose to 20/, and after to 26/8 the quarter, till remedie by outward provision was procured and had,' that is, it was imported from Germany. The significance of these figures will be appreciated from the fact that 6s. 8½d. a quarter was the average price for the decade 1511-20 (Rogers, *ib.* 292).

<sup>8</sup> November 18, 1527 (L. and P. Hen. 8, iv. 3587, 3).

<sup>9</sup> There was a servant of Wolsey's named Thomas Alward, Alverd, Alvard, or Alford, originally a customer at Ipswich (L. and P. Hen. 8, iv. 297), but the frequent references to him in the Letters and Papers tend to show that he was not the defendant in this case.

<sup>10</sup> Perhaps a trade name; but on the use of 'alias' see 'N. and Q.' 7th ser. xii. 401, 450.

<sup>11</sup> September 29, 1528.

<sup>12</sup> 'The comb or half quarter is very general in the Eastern counties' (Rogers, 'Hist. Agr. and Prices,' iv. 207). The amount engrossed was 490 quarters.

<sup>13</sup> Holinshed's 'Chronicle,' sub November 1527, says: 'Commissioners appointed to see order taken in shires about ordeined that none [corn] should be conveyed out of one shire into an other' (p. 722).

<sup>14</sup> The Venetian ambassador writing to the Doge and Signory on November 11, 1527, reports: 'One half of the flour now eaten here is bean flour, on which they are compelled to subsist' ('Venetian State Papers,' edited by R. Brown [1871], iv. 208). This would account for the record of Rogers for 1527-28: 'Beans and peas are at high prices.' They had been scarce and dear in the previous year ('Hist. Agr. and Prices,' iv. 256). The prices are set out below:

Average prices.	Beans per qr.	Peas per qr.
1511-20	4s. 9¾d.	5s. 0¾d.
1526	6s. 8d.	7s. 6d.
1527	7s. 0d.	7s. 6d.
1528	5s. 10½d.	6s. 0d.

(*ib.* 289, 292).

prouided for the staying and noon passing of the said graynes, it is clierly supposed that a quarter of pease should haue been at x s. within ij monethys at the vttermost to the vtter famysshynge of many a man woman and child in short tyme as was in this last<sup>15</sup> Scarceenes of greyne by like meanys provyd in our own neighbours. Moreouer where the said complaynautes and their pore neighbours compleyned to oon John Castell oon of the kinges Justices of his peas within the said Countie of huntyngdon<sup>16</sup> of the ingrocyng and forstallyng of the said Alward and Branston of the said greyn contrary to the kinges proclamacion desiryng hym to prouide remedy in that behalff for goddes cause oonly the said John Castell then not oonly commaundyed the said complaynautes and their neighbours to suffre the said Alward and Braunston to haue passage with such corne as they had bought forstallyd and ingroced, but also put theym in fere to punyssh them by way of enprisonment yf they dyd let<sup>17</sup> the same And furthermore where the said complaynautes by a Jury for the king chargyd at the last quarter sessyons holden at huntyngdon after the Feast of the Natiuitie of our lord god last past<sup>18</sup> entendyng to haue endycted the saide offenders according to their desertes, The said John Castell calling to hym certayne of the same enquest chargyng them not to medyll in no wise with the same Alward & branston in their verdyte gyvyng,<sup>19</sup> For he his cosyn pryse<sup>20</sup> and master Sapeottes<sup>21</sup> shuld order

<sup>15</sup> 1527.

<sup>16</sup> John Castell, probably the J. C. admitted a member of the Middle Temple in July, 20 Henry 7 (1505), was nominated upon the commission of the peace for Huntingdonshire on February 22, 1510 (L. and P. Hen. 8, i. 905), and repeatedly until February 1532 (ib. v. p. 702). He acted as a trustee of Sir Robert Rede, Lord Chief Justice of the Common Pleas, on October 22, 1512 (ib. 3489), who was also on the commission of the peace for the same county. Unless there was another person of the same name, he enjoyed the office of joint Secondary to the Treasurer of the Exchequer at a salary of 5*l.* yearly (ib. ii. p. 877; cf. ib. iv. p. 870). The circumstance that he was nominated in 1523 a commissioner and also a collector of Subsidy for Huntingdonshire is in favour of the identification (ib. iii. pp. 1362, 1457). Pending the vote for the Subsidy, he had collected the forced loan of the same year in the Hundreds of Hurstingstone and Norman Cross, within the latter of which Yaxley is situate (ib. 3687). His industry was such that he and Anthony Mallery returned 1475*l.* 3*s.* 5*d.* as collected for the loan from Hunts (ib. iv. p. 82). He was himself rated as worth 50*l.* in goods in

London ('Inner Temple Records' [1896], i. 463). A paper in L. and P. vii. 56, 'Hereafter followeth the names of the knights of several shires in England which are departed to God since the beginning of the Parliament,' is assigned to the date 1534 by Dr. J. Gairdner. Under Hunts appear the names Rie. Sapkott, John Castell. Neither of these names is to be found on the list of knights of the shire for Hunts, nor elsewhere, in the list of the Parliament elected in the autumn of 1529 (see ib. iv. 6043). The inference is that John Castell, who does not appear to have sat in Parliament before, was elected to fill a vacaney some time after 1529. But that he did not live till the dissolution of April 4, 1536, is evident from the paper mentioned and from the fact that his name disappears from the Letters and Papers and from the commissions of the peace after February 1532.

<sup>17</sup> Obstruct. <sup>18</sup> December 25, 1528.

<sup>19</sup> This would bring Castell within the statutory offence of 'embraery,' specially struck at by the Act 'Pro Camera Stellata' (3 Hen. 7, c. 1). 'Embraceour or embrasour, 19 Henry VII. c. 13, is he that when a matter is in Tryal between Party



that mater better thenn they could, and thus and thereby by vntruth

and Party . . . privily labours the jury' (Cowel, 'Interpr.' s.v.). See further 'Select Cases in the Star Chamber,' Selden Society, 1902, p. 147, n. 45.

<sup>20</sup> This is probably William Pryce, who was an Auditor of the Exchequer in 1528 (L. and P. iv. 4445, 16) at a salary of 10*l.* a year (ib. p. 870). In a grant of the reversion to his place dated February 20, 26 Henry 8 (1535), he is called 'à Price' (ib. viii. 291, 41); so also in another grant of the reversion on December 25, 1539 (ib. xiv. ii. 780). He died probably in the autumn of 1542, his decease being mentioned on November 17 of that year, when his auditorship was granted to Francis Southwell (ib. xvii. 1154, 63). He left a widow, Helen, who on December 2 was granted by the Crown a lease of a manor and lands and tenements in Essex and Herts for twenty-one years at a rent of 21*l.* (ib. 1251, 28). The language of the petition suggests that he was on the commission of the peace for Huntingdonshire, though I have not found his name on any of those commissions printed in the Letters and Papers of Henry 8. But he may be identified with 'William ap Rhese sive Price,' son and heir of Edward ap Rhese, lord of the manor of Wassinglee (Washingley), Hunts. His wife is stated in the pedigree of Ap Rhese to have been Elizabeth, daughter and sole heir of Robert Latimer 'de Duntish in le West Country,' i.e. Dorset ('Visitation of Huntingdonshire,' Camden Soc. 1849, p. 31). But Hutchins shows that she was more probably daughter and co-heir of Latimer of Titleford ('Hist. of Dorset,' iii. 259). Washingley Hall is three miles S.W. of Yaxley.

<sup>21</sup> Richard Sapcottes, Sapcotts, or Sapcote, eldest son and heir of Sir John Sapcotts of Elton or Aylton, Hunts, whose will was proved in 1510 ('Index to Canterbury Wills'), by Elizabeth, sister and co-heir of John Lord Dinham and widow of Fulk Bouchier Lord Fitzvarine, who had died on September 12, 1479 (Harl. Soc. [1870], iii. 46, 'Visitation of Rutland'). Richard Sapcottes married Anne, daughter of Sir Nicholas Vaux, who was raised to the peerage in 1523 with the title of Lord Vaux of Harrowden. As Vaux's second marriage did not take place till 1507, Sapcottes' wife was probably one of his three daughters by his first wife, Elizabeth Fitzhugh, daughter and co-heir of Henry Fitzhugh, Lord Fitzhugh, and widow of Sir William Parr ('Dict. Nat. Biog.' sub Vaux). Sapcottes' father-in-law, Vaux, was in high military command and influential at Court, and it was not improbably due to his influence that in 1516 Richard Sapcottes was

nominated to the Court post of Esquire for the Body Extraordinary, a corps of sixty-nine gentlemen (L. and P. Hen. 8, ii. 2735). He probably inherited from his mother the manor of or land at Corton-Dinham, Somerset (J. Collinson, 'Hist. of Somerset' [1791], ii. 362), for he was first on the roll though not pricked for sheriff for Somerset and Dorset on November 9, 1517 (L. and P. ii. 3783). He was first placed on the commission of the peace for Huntingdonshire on December 6, 1528 (ib. iv. 5083, 6), and was again nominated in February 1531 (ib. v. 119, 10), and February 1532 (v. 838, 20). From his grandmother Elizabeth Plesyngton he inherited the manor of Burley-on-the-Hill, co. Rutland (Inq. post mortem Hen. 7, i. 1172, 1257), by reason of which he was in June 1530, nominated a commissioner of assize for Rutland (ib. iv. p. 2919), and on July 14 following a commissioner to inquire into the possessions of Cardinal Wolsey in that county (ib. 6516). He was also placed upon the commission of the peace for Rutland in 1531 (ib. v. 119, 55). At some time between February 1532 and July 26, 1534, when he was nominated as Sir Richard Sapcote a commissioner of sewers for Huntingdonshire, he was knighted (ib. vii. 1026, 34). He acted again on this commission in 1535 (ib. viii. 149, 38) and 1537 (xii. i. 1105, 11). In October 1536 occurred the Lincolnshire Rising against the new policy of Cranmer and Cromwell in Church and State. Sapcottes, as appears by his will, was a Lincolnshire landowner and threw in his lot with the Government. He was one of the jury who on March 26, 1537, tried twelve of the principal prisoners at Lincoln, where they were all found guilty and condemned to death (ib. xii. i. 734 [8], [9]). Lord Hussey was tried and condemned at Westminster on May 15 for complicity with the rebels, and upon his attainder Sapcottes wrote to Cromwell (June 4, 1537) asking for a grant of part of his lands (ib. xii. ii. 29), evidently, though not explicitly, as a reward for his services. That these had been considerable may be inferred from a list, belonging to the year 1538, of the 'Names of persons to be had at this time in the King's most benign remembrance' (ib. xiii. i. 1). Accordingly, his petition was answered on March 10, 29 Henry 8 (1538), by a grant in fee of Lord Hussey's messuages and lands in Saperton, Lincolnshire (ib. 646, 37). His nephew (probably), Edward Sapcot (see L. and P. xix. ii. 800, 36), was evidently, as a letter to Cromwell shews, an ardent Reformer (ib. 938). In January 1540 Sir Richard, relying on his favour with Crom-

the said pore comons bien vtterly hurt and enpouerysshed, and by like meanys this last yere they were fayne to sell for very nede for bread corne, their peauter their bras and bedding with other such as they had to their vtter vndoing, and somme dyed for very hunger the profe redy to be made. Wherefore we moost humbly beseche your good grace in the honour of god tenderly to considre thies our nedefull complaynt and to set such direccions according to the kinges high pleasure and proclamacions that we his pore and true subgiettes may vnder god and his grace lyve and not to peryssh for hunger our wyfes and children, and we shall daily pray to god for the preseruacion of your grace long to contynue.

[Indorsed] lee & smyth.

YAXLEY, INHABITANTS OF *v.* THOMAS AYLWARD &  
CHRISTOFER BRANSTON.<sup>1</sup>

1529 B. To the moost Reuerend Fader in god my lord  
legate Cardinall Archiebisshope of Yorke, primate  
& Chaunceller of England.

In their moost humble wise shewen & complaynen vnto your noble grace your daily Oratours & bedemen<sup>2</sup> the poore inhabitauntes of the Towne of Yaxley in the Countie of Huntingdon That where on Saynt Andrews day thapostle last past as one Thomas Aylward of the Towne of Lyn in the Countie of Norffolk merchaunt was than ladyng his keyle<sup>3</sup> with pees to carry theym owte of that Countie vnto Lyn forsayd At whiche tyme a poore man one of your Oratours

well, pressed him to proeure from the king a sale of a wood, three miles from his house at Elton, at 4*l.* an aere (January 15, 1540) (ib. xv. 65). Cromwell responded favourably, and this led to a further request (ib. 66) which appears not to have been gratified (ib. 67). At this time Sir Richard eomplains that he was suffering from an ague (ib. 66). His will was proved in 1543, he being described as of 'Aylton, Hunts; Lineoln; Northants; Rutland, and Oxford' ('Index to Canterbury Wills'). His lands in Oxfordshire are set out in the recital of an alienation by his daughter and heir Anne, the wife of Sir William Fitzwilliam, in L. and P. xix. ii. 800, 36. His seat of Elton Hall is about seven miles

W.N.W. of Yaxley. The will of Sir R. Sapcotts in Nicolas, 'Testamenta Vetusta,' p. 711, is perhaps wrongly dated and belongs to an aneestor who died in 1477 (see J. Bridges, 'Hist. of Northants,' ii 457).

<sup>1</sup> S.C.P. Hen. 8, Bundle xxiii. No. 104. This would appear to be an amended bill. It is to be observed that the earlier eomplaint does not lay an offense on a particular date, but uses the expression 'at sundry tymes,' and might therefore be held 'void for uncertainty.' The date now specified is St. Andrew's Day, November 30, 1528. See also Introd. p. xxv.

<sup>2</sup> See p. 1, n. 2.

Barge. Cf. p. 86, n. 5.

askyd the sayd Aylward whyther he wold carry theym Then he answered haist thowe any thyng a doo therwith, For I am not there to gyve the accompt. Then sayd the poore man 'You men of lyn dyd carry our pees into Scotland the last yere, an pyned vs For hungger here, For lake of sustynaunce, And if we wyst that ye wold carry thise pees into Scotland, as ye did oure pees the last yere, we wold stey theym vntill we knewe further of the kynges pleasour therin, For as we do thynk, that you doo agaynst the kynges commandement in that behalf.' Therwith the sayd Thomas Ayleward was very aunghy & Rebukyd your bedemen, Insomoche that he did cast his Glove in defyaunce and defyed all the best in the Towne & asmany as wold take there parte & also he sayde that he wold haue the pees, or he wold reyse an C of as good Fytinge men as the kynge hath any, And also good & gracioux lord upon newyeres day last past <sup>4</sup> a poore man of the sayd Towne of Yaxley callyd Richard Shryve, As he was goyng betwene the Townes of Steleton <sup>5</sup> & Yaxley mete with the sayd Aylward, the poore man than sayenge vnto hym, haue ye nott bought pees Inowgh yete, the sayd Aylward that in A Fury, a lyted of his hors & drewe his swyrd & Buckeler <sup>6</sup> & came to the poore man vyolently And so he putt the poore man in Jopardy of his lyff yff he had nott shyftyd the better for hym self. And ouer this gracioux lord the sayd Thomas Aylward doith daily threten & manasse your Oratours that he wold not leue them worth a grote.<sup>7</sup> And Furthermore gracioux lord so it was that one John Lee Constable of Yaxley forsayd came with another poore man that had certayn lond tyllid for peeson & desired one Christofer Branston another <sup>8</sup> ingroser & Forstaller <sup>8</sup> of the markettes and Fellowe with the sayd Thomas Aylward & desyred to by a quarter of pees to sowe his land, and offeryd hym viij s iiij d for the quarter,<sup>9</sup> Than the sayd Christofer saying Weyne <sup>10</sup> you that I am a Bailly <sup>11</sup> for suche laddes and beggars, And so he wold lett theym to

<sup>4</sup> 1529. Although the official year began on March 25, I have met with evidence that January 1 was already called New Year's Day.

<sup>5</sup> Now Stilton, the home of the famous cheese, about two miles S.W. of Yaxley.

<sup>6</sup> Acts and Proclamations against the bearing of weapons seem to have been entirely disregarded. Such a proclamation, of the time of Henry 7, may be seen in Brit. Mus. MSS. Harl. Plut. lxvi. D. f. 18. By the Statute of Northampton, 2 Ed. 3, c. 3 (1328), it was forbidden to go or to ride armed. See further as to the practice, 'Select Cases in the Star Chamber,' Selden Society, 1902, pp. cix, 112, n. 6, 242, n. 6.

<sup>7</sup> A groat was fourpence.

<sup>8</sup> Written above 'regrater,' struck through. As to these terms, see p. 218, n. 15.

<sup>9</sup> Under 1529 Rogers notes 'Beans and peas are rather dear' ('Hist. Ag. and Pr.' iv. 257). The price he gives for peas is 7s. 1½d. a quarter, but this is a single entry. White peas were sold in Lent, 1529, at Swyn in Lincolnshire for 9s. 4d. the quarter (ib. iii. 96).

<sup>10</sup> 'Suppose or imagine.' R. Nares, 'Glossary' (1859), s.v. ween.

<sup>11</sup> 'Bailee,' 'one to whom goods are committed in trust for a specific purpose' (Murray, 'Eng. Diet.' s.v.), citing Perkins' 'Profitable Book' (1528), ii. § 140 (1642), 62.



haue noon for ther money And ouer this gracioux lord apou Fryday next after midlent Sondag last past, As the said Thomas Aylward satt at dener in Mr Cony howse,<sup>12</sup> The sayd Christofer Branston Joliuer Goldam, John Wodcok & as they commonyd<sup>13</sup> vpon the sayd peeson, the sayd Thomas Aylward than sayde, that if he had had as good a cote<sup>14</sup> apou hym that day as he had the day when he dyd cast his Glove, one shuld a dyed that day, As honest men can testifie the same. In tender consideracion of the premisses for so moche as the sayd Thomas Aylward & Christofer Branston doon make ther bost that they haue iche of them xl li. & an C li. of lond to ley to pledge to spend vpon your poore Oratours, It may therefore please your noble grace of your habundant charitie not oonly to graunt your poore Oratours the kynges most gracioux ayde and yours in the premisses, But also to commaunde the said Thomas Aylward & Christofer Branston personally to appere afore your grace and other the lordes of the kynges most honourable Counsell at a day certayn and vnder a certayn payne by your grace to be lymyted there to aunswere to the premysses & Farther tabide all suche ordre therin As by your grace shalbe thought to stond with right & Justice & the Comon wele of youre poore Oratours & other the Kynges poore subgiettes. Thus at the Reuerence of Jhesu and in the way of Charitie, And all youre poore Oratours shall daily pray to almyghtty God for the prosperouse preseruacion of your noble grace longe to endure.

(*Indorsed in modern hand*) Yaxley, Inhabitants of,

v.

Ailward & al.

CADE AND OTHERS v. CLARKE AND OTHERS.<sup>1</sup>

A. To the Right honorable sir Thomas More knyght lorde Chauncelour of England.<sup>2</sup>

1531 Most humbly Shewen<sup>3</sup> and Complayn vnto your good lordship your daily Oratours Thomas Cade Clerk<sup>4</sup> Roberte Thrale thelder and

<sup>12</sup> 'With' omitted.

<sup>13</sup> Communed.

<sup>14</sup> That is, a coat of defence, perhaps a leather doublet.

<sup>1</sup> S.C.P. Hen. 8 vol. viii. f. 4. Introd. p. cxxvii.

<sup>2</sup> Lord Chancellor, October 25, 1529; resigned May 16, 1532 ('Dict. Nat. Biog.').

<sup>3</sup> The old English plural. See E. Sievers 'Old English Grammar' [2nd ed. 1887 edited by A. S. Cook], § 352, p. 192.

<sup>4</sup> Thomas Cade, clerk. The name of

Roberte Thrale the yonger That where Thomas late lorde Cardynall<sup>6</sup> and Comendatorie<sup>6</sup> of the exempt<sup>7</sup> Monastery of Seynt Albons<sup>8</sup> nowe decessed was seased in his demeane as of Fee of and in the Manour of Sandrugge<sup>9</sup> wyth appurtenances in the Countie of Hertford as in the right of the seid Monastery and so seased at a Courte holden at the seid Manour the ix day of Aprill the xvij yere of the reigne of our

this person not infrequently occurs in the Letters and Papers of Henry 8. In 1519 a Thomas Cade was surveyor to Edward Stafford, Duke of Buckingham (L. and P. iii. 469, cf. ib. ii. 3173). The duke, whose possessions were in many counties, was beheaded in 1521. In the same year Wolsey became 'commendator' of St. Albans, and in 1528 Thomas Cade signs as surveyor of the estates of the Abbey (ib. iv. 4318). It may be conjectured that he had passed into the service of Wolsey as surveyor after the execution of the duke, and that it was in this capacity that, as 'Thomas Cade, clerk,' he was nominated in 1524 and 1528 on the commission of the peace for Herts (ib. 961 (26), 2002 (11), 5083 (4)), in which county the Abbey held many manors. It is, however, to be noted that he was in the same year and again in 1528 placed on the commission for Huntingdonshire (ib. 961 (18), 1610 (11), 5083 (6)), where the Abbey held no land, and for Bedfordshire, where it held but little, in 1529 (ib. 5510). Neither in Bedfordshire nor Huntingdonshire does Wolsey appear to have held land (ib. 6516); so that it may be inferred that in those two counties Cade may have acquired property of his own. That he was a member of Wolsey's household and not only surveyor to St. Albans appears from his correspondence with Cromwell after Wolsey's fall (ib. 6186 (2)), and from the part he took in the management of the revenues of the Cardinal's College at Ipswich (ib. 4229, 10, cf. ib. v. 976). It is possible that his association with Cromwell in the winding up of the Cardinal's affairs introduced him to the notice of Cranmer, if this be the Thomas Cade for whom as Cranmer's 'ally' the archbishop in 1534 solicited the Duchess of Norfolk's influence that he might be permitted to hold by deputy an office at Calais of 6*d.* a day (ib. vii. 752). If it were the same, the request was successful, for in 1537 the Abbot of the dissolved Abbey of Rewley petitioned Cromwell for 'a grant of a service called the Priory' in Burford of the Wolde, 'the holder of which, one Mr. Cade,' he describes as 'very old and sickly.' This appears to have been an ecclesiastical office (ib. xii. 1321). That this was Cromwell's old correspondent may be inferred from

a letter dated from Burford-on-the-Wold, March 4, 1538, recommending a petitioner to Cromwell's favour (ib. xiii. i. 415). This is the last time his name appears in these papers. As the Priory was granted in 35 Henry 8 (1543) to Edmund Herman, Cade's death not improbably occurred shortly before that date.

<sup>5</sup> Thomas Wolsey, cardinal Archbishop of York, died November 29, 1530.

<sup>6</sup> That is, enjoying '*in commendam*' as a sort of nominal caretaker during a vacancy. See Murray, 'Eng. Dict,' s.v. Wolsey was 'commendator' of St. Albans from 1521 to 1529. 'When Wolsey took this Abbey *in commendam*, it was such a breach of the Canon Law and such an invasion of that rule and government in which Abbeys had been holden, that it amazed all sober-minded persons who revered the ancient constitution of Abbeys, and seemed to portend some fatal blow to that order of the clergy' (Newcome in Dugd. 'Monast.' ii. 206). Abbeys and conventual institutions required a personal attendance, and the constant presence of the ruler; which was not always the case in secular preferments. Newcome adds: 'It doth not appear that he ever came down even to take possession; nor, indeed, is there the least tittle of record remaining to shew what was done during his commendamship, which lasted till his downfall, nor who was his Prior; or what material events then affected this house' ('Hist. of St. Albans,' pp. 424, 425; Dugd. l.s.c.).

<sup>7</sup> That is, withdrawn from the jurisdiction of the Bishop and immediately subject to the Pope.

<sup>8</sup> Founded by Offa, king of Mercia, in 793 for a hundred Benedictine monks (Dugdale, ii. 178).

<sup>9</sup> In Domesday, Sandrige. Given to the Abbey in 796 by Egfrid, the son of Offa. In Domesday (No. 10, f. 135) the entry runs: 'Twenty-six villanes there have ten carucates. There are two cottagers and one bondman. . . . It is worth on the whole eighteen pounds; when received, twelve pounds, and as much in the time of King Edward. This manor lies and lay in the demesne of the Church of St. Albans' (J. E. Cussans, 'Hist. of Hertfordshire, Hundred of Cashio' [1881], p. 220).

soueraigne lorde the kyng that nowe is <sup>10</sup> was inquired amonges oder thinges by William Marchall <sup>11</sup> gentleman <sup>12</sup> than being Steward of the seid Manour and the seid Thomas Cade surveyoure Roberte Thrale thelder Fermour of the seid Manour and Roberte Thrale the yonger <sup>13</sup> being also ther present if there were any bondmen wythin the seid lordship of Sandrugge to the same regardaunte or in grosse belonging <sup>14</sup> and after the tyme that the seid Stewarde hadd geven his Charge vnto the seid homage <sup>15</sup> aswell to enquire of those thinges as of all odere the seid homage required the seid Stewarde to geve a longere day vnto them to geve their verdyte to thentent that the seid

<sup>10</sup> 1526.

<sup>11</sup> William Marshall was pretty certainly a lawyer, and probably the William Marshall who was admitted to Lincoln's Inn on April 17, 1496 ('L.I. Admission Register,' i. 28). In 1503 he was an Auditor of the Inn ('L.I. Black Books,' i. 130). He was elected Treasurer in Michaelmas Term, 1510 (ib. 162), and in 1520-2 (ib. 198, 200), and this shews that he must have been a barrister of considerable standing. In November 1511 he was appointed Autumn Reader (ib. 165); and a Governor of the Inn a year later (ib. 169). He was Lent Reader in 1516 (ib. 177). He appears to have been a wealthy man, for on July 8, 1525, he undertook to advance money to the Inn for the completion of some new chambers, upon the condition that he should remain Treasurer until repaid (ib. 211). His name frequently recurs in the 'Black Books' in his capacity of Governor until November 1, 1531, after which it disappears. This suggests that he was perhaps William Marchall (the name is frequently so spelt in the 'Linecoln's Inn Black Books'), gentleman, of Dunstaple, Bedfordshire, and of Bucks, whose will was proved in that year (J. C. C. Smith, 'Index to Canterbury Wills'). There is, it is true, a commission of the peace for Bucks, bearing this William Marshall's name in February 1532 (L. and P. viii. 838), but it may very well have been that at that date the fact of his death had not been made known to the Chancellor, and his name does not occur in subsequent commissions. There were, however, several persons of these names, one, who may have been the same, apparently concerned with the victualling of the Abbey of St. Albans in 1522 (ib. iii. 2583), and another, possibly a son, who, at a date unknown, was clerk to Sir R. Broke, Chief Baron of the Exchequer, and under Wolsey's patronage (ib. iv. App. 133). The office of Steward of Monasteries was at this time often occupied by persons of rank and wealth (see 'Select Cases in the Star Chamber' [1902], p. cviii), and though William Marshall

is only mentioned here as Steward of the Manor of Sandridge, it is likely enough that he held the same office in connexion with other manors of the Abbey, especially in Beds and Bucks, for both of which counties he was on the commission of the peace, for Beds from 1510 (L. and P. i. 1051), and for Bucks from 1524 (ib. iv. 137, 4) until his death. His name occurs in Foss's list of practising counsel (temp. Henry 8, 'Lives,' v. 108), and on June 20, 1530, he was a commissioner of jail delivery at Bedford (L. and P. iv. 6751 [24]). As a man of substance, he may possibly have been the William Marshall, then of Hungry Hatley, Cambridgeshire, who in 1522 contributed 24*l.* towards the loan to the King (ib. iii. p. 1119).

<sup>12</sup> The style of a younger son. See 'G. Camdeni Britannia' (Amsterdam, 1639), p. 71, and 'Select Cases in the Court of Requests' (1898), 147, note 4.

<sup>13</sup> 'South and south-west of the tower (of Sandridge Church) are twenty-two memorials of the family of Thrale, extending over a period of one hundred and fifty years' (Cussans, p. 227). There is an estate of about 810 acres in extent, about midway between Sandridge and St. Albans, called 'Marshall's Wick.' 'It probably takes its name from some former owner; but the first possessor of it I can find was Richard Thrales, to whom it belonged in 1718' (ib. p. 24).

<sup>14</sup> See Introduction, p. cxxvii.

<sup>15</sup> 'Whosoever is possessioner and owner of a mannor may holde from three weekes to three weekes or at his pleasure of his tennantes and amongst his tennantes a court called a court Baron. And there his tennants being sworne make a Jurie which is not called the enquest, but the homage' (Sir Thomas Smith, 'De Republica Anglorum' [ed. 1906], Bk. II. chap. 37). The form of the steward's 'charge' is given in Kitchyn's 'Le Courte Leete' (ed. 1585), f. 78, and is there called 'Vn exhortation al enquest,' beginning 'Vous bone homes que soyez jures.'



homage myght have perfyte knowlege and vnderstonding to present who were bondmen to the seid Manour and who were not, and at the request of the seid homage the seid Stewarde graunted vnto them a day vnto the next Courte to be kepte and holden vnder the asshe<sup>16</sup> within the abbey of seynt Albons the same Courte so adiornd to be kepte ther that day thre wekes<sup>17</sup> next ensuyng which adiornement of the seid Courte was according to the olde Custome of the seid Manour of Sandrugge tyme owte of mynde vsed. Wherapon the seid homage at the day of prefyxcion to them geuen in forme aboueseid Came vnto the Towne of seynt Albons and forthwyth they went vnto the house of one Thomas baker being within the said towne and required the seid Roberte Thrale the yonger to goo with them to thentent that he shuld wryte their presentment by cause ther was non of the seid homage that cowde wryte, and so at their comaundement and request the seid Thrale the yonger in the house of the seid Thomas Baker wrote their verdyte and presentment and for his labour and paynes therin taken the seid homage gave vnto hym xij*d.* and mayntenaunt<sup>18</sup> the seid homage went to the seid Surveyoure and delyuered hym the same presentment being in wryting as is beforseid. Which he toke of them and dyd rede yt and after that delyuered yt to them agayn and bade them bere yt to the Courte that day to be holden vnder the seid asshe and ther to delyuere it to one Richard Elys Clerk of the Courtes and deputie to the seid Stewarde for that tyme. Which homage delyuered the seid presentment vnto the seid Elys to enter the same in the lordes Court rolles, and syns that tyme the seid Richard Elys Clerke of the Courtes of his maliciouse crafty and couetous mynde for lucre of money entending vtterly to defame inpouerisshe and vndoo your seid oratours as evidently shalbe proved by letters of his owne hand wryting hath delyuered Copies of the Courte Rolle to George Clerke Edmond feld Thomas Feld William Chapell Roger Chapell and Richard Chapell which were presentyd amonges oder by the seid homage to be bondmen to the seid Comendatorie as in the right of the seid monastery, and also the seid Elys vntruely affirmed vnto the seid George Clerk and oder being presentid as is aboueseid that the presentment was the acte of the seid Thomas Cade Roberte and Roberte and not the verdyte and presentment of the seid homage, and that the seid Elys Clerke<sup>19</sup> by the comaundement of the seid

<sup>16</sup> This primitive court-house is not mentioned in Blount's 'Tenures of Land and Customs of Manors' (ed. 1874), nor have I been able to find any reference to it elsewhere.

<sup>17</sup> See note 15, *supra*.

<sup>18</sup> Immediately; a not uncommon use in the sixteenth century.

<sup>19</sup> An example of the transformation of the name of a calling into a surname.

Thomas Cade entred yt wher in dede and for trouht honorable lorde your seid Oratours neuer spake any oder wordes ne dyd any oder acte or actes concernyng the premysses but onely as is aboue declared and confessed. And after this vnttrue and false surmyse made by the seid Elys and by Covyn<sup>20</sup> and confidercy hadd and determyned betwixt the seid Elys and the seid George Edmond Thomas feld William Chapell Roger and Rychard having grett bering<sup>21</sup> and many kynsmen allyaunce and oder frendes and confiderates in the seid Countie trusting rather therin then to the trouht or goodnes of their matter have nowe of late onely for vexacion comensed sex seuerall accions apou their Case<sup>22</sup> before the kynges Justices of his Comen place<sup>23</sup> agaynst your seid Oratours and also agaynst the seid Elys which Elys is namyd in the seid accions by his owne consent and agreement purposely to colour<sup>24</sup> and hyde their seid Covyn disceyt and fraude surmytting<sup>25</sup> by the seid seuerall surmysed<sup>26</sup> accions that your seid oratours and the seid Elys Clerke of their False conspiracie and Coven in a certen Rolle of the same Courte in the name of Thomas Cardinall archbyssshop of Yorke and perpetual Comendatorie of the exempte Monastery of Seynt Albon late lorde of the said Manour of Sandrugge aforseid as the presentment of the homage and tenaunttes<sup>27</sup> of the same Manour ther appering at the Courte where yt was not so presentyd, falsly and craftely at Stewenage in the Countie aforseid made to be wryten and inrolled as herafter foloweth. The presentment of the homage. Wee present George Clerk Edmond Feld Thomas Feld Wylliam Chapell Roger Chapell and Rychard Chapell

<sup>20</sup> Fraud.

<sup>21</sup> Support; maintenance; especially in a bad sense.

<sup>22</sup> 'Trespass on the case' apparently first came into use in the reign of Edward 3. 'This kind of action—which derives its name from the comparative particularity with which the circumstances of the plaintiff's case are detailed in its written allegations—is very comprehensive in its scope, and may be said to lie in every case where damages are claimed for an injury to person or property not falling within the compass of the other forms' (Reeves, 'Hist. of Engl. Law,' iii. 89, 243, 391; Stephen, 'New Commentaries' [1863], iii. 478). 'So called,' says Blackstone, 'because the plaintiff's whole case or cause of complaint is set forth at large in the original writ' ('Commentaries' [ed. 1768], iii. 122). Cf. W. S. Holdsworth, 'Hist. Eng. Law' (1909), ii. 378-9.

<sup>23</sup> 'Pleas,' probably pronounced as 'place' and so commonly spelt.

<sup>24</sup> Disguise.

<sup>25</sup> Surmising, in the sense of suggesting.

<sup>26</sup> Pretended.

<sup>27</sup> That is, the copyhold tenants, the 'homage' being the freeholders. Cf. Coke, 1 Inst. 64 a, n. (1): 'Nota, in ancient times by hommes or men, homagers, whom we now call freeholders, were intended.' In Kitchyn's 'Modus tenendi Court-Baron,' the steward, charging the jury, tells them that one cause of their meeting is 'pour ceo que ascuns de vous tient terres del seigniors de cest manor, ascunz come freeholders, ascuns come copyholders, et per reason de ascun de vostre tenures, vous doies faire suit al court baron de vostre seignior' ('Le Courte Leete' [ed. 1585], f. 78). We see, therefore, at these courts the freeholders assembled side by side with the copyholders. See further, Introduction to the Inquisition of 1517 in 'Transactions of the Royal Historical Society,' New Series (1892), vol. vi. p. 234.

bondmen as by the seid seuerall Feygned accions more playnely at large apperith of recorde vnto which accions your seid oratours appered and the seid Thomas Cade pleadyd delyuere of the seid presentment to hym by one John Wetherhed the Forman of the homage in all their names as their hole presentment and verdyte and the seid Roberte Thrale thelder not gyltie, and the seid Roberte Thrale the yonger that he dyd wryte the seid verdyte by the comaundement of the seid homage, as more at large evidently in the same plees yt doth appere. So it is right honorable lorde that the seid George Edmond Thomas Feld Wylliam Chapell Roger and Richard trusting in their seid bering and oder grett favour ayed and mayntenaunce which they have at this present tyme within the seid Countie have allegid in their seid seuerall declaracions that the seid presentment was made at Stevenage where all the Frendes kynsmen and aliaunces of the seid playntiffes doo inhabyte and at which Stewenage the seid homage came not to thentent to make any suche presentment nor any suche verdyte wryting or presentment was at any tyme ther hadd or geuen in maner and forme as in the seid seuerall declaracions more playnely apperith which seid playntyfes doo entende therby vntruely to have the seid seuerall accions tried by the speciall Frendes of the seid playntyffes dwellinge nye and aboute the seid stevenage wherapon they have pursued seuerall venire facias<sup>28</sup> retornable the First day of the terme of seynt Hillary<sup>29</sup> next comyng and so by the means of such allyaunces adherentes and Frendes in the seid Countie and by reason of grett mayntenaunce<sup>30</sup> and bering that the seid playntyffes have of such persons that have married with the kynsmen of the seid playntyffes and with oder of their affynnytie<sup>31</sup> the seid seuerall enquestes by all lykehode and comen reporte within the seid Countie through such unlauffull means parcialtye and imbracery<sup>32</sup> as is vsed and practysed by the seid playntyffes and

<sup>28</sup> 'Venire facias is a Writ Judicial directed to the Undersheriff . . . and lies where two Parties plead, and come to Issue; for then the Party, Plaintiff or Defendant, shall have this Writ directed to the Sheriff to cause twelve Men of the same County to say the truth upon the Issue taken' (Cowel, 'Interpr.').

<sup>29</sup> 'Hilary Term began on the 23rd or 24th of January' (J. J. Bond, 'Handy-book for Verifying Dates' [4th ed. 1889], p. 174). From the bills of costs it may be inferred that the Hilary Term 'next comyng' was in January 1531, when it opened on January 23.

<sup>30</sup> An imputation of the legal offence of

'maintenance,' defined by Coke (2 Inst. 212) as 'an unlawfull upholding of the demandant or plaintife, tenant or defendant in a cause depending in suit by word, writing, countenance, or deed.'

<sup>31</sup> Relationship by marriage, as distinguished from kinship, relationship by descent or consanguinity (Murray, 'Eng. Diet.' *sub* 'Affinity'; 'Kinship').

<sup>32</sup> The offence of an Embraceour; to pre-instruct the jury, &c., is Embracery (Cowel, 'Interpr.' s.v.). 'Embraceour or Embrasour (19 Hen. 7, c. 13) is he that when a matter is in Tryal between Party and Party comes to the Bar with one of the Parties (having received some Reward



their confederates to in and aboute the premysses entend wythout cause resonable to geve grett damages agaynst your seid Oratours in the seid seuerall accions for manyfestly yt appereth that the venewe most nedes be of Stevenage aforsed where the seid homage neuer came to make any such presentment, and which Stevenage is ten Myles frome the place where the seid presentment was geven and is lyke Farre frome the monastery of seynt Albons, and furdere more Shewen vnto your lordship that for by cause that one John Clerke thelder being presentyd a bondman as oder were before this tyme sued an accion apon his case agaynst the seid Roberte Thrale thelder before the seid Kynges Justices and in the same vntruely recouered xv li. damages and liijs. iiijd. costes thorowe such bering and vnlauffull means as is beforseid, and in consideracion that the seid playntyffes have myche more bering frendship and mayntenaunce in the seid Countie then the seid John Clerke hadd<sup>33</sup> be right well assured to have grett damage agaynst your seid Oratours to the vtter vndoing of your seid Oratours if the seid vntrue and surmysed accions shuld have theire tryall before the veray trouht concernynge the premysses be examyned in this most honorable Courte of Chauncery.<sup>34</sup> Wherefore the premysses consideryd and in avoyding of grett periurye<sup>35</sup> that is lyke to come and ensue by reason of the seid sundry and surmysed accions, and for that your seid Oratours have diuerse substanciall Wytnes to certyfie what they sayde and dyd concernynge the premysses at the seid Courte holden at Sandrugge and at the day of the Court holden vnder the asshe of seynt Albons by adiornement as is aforsaid which wytnes they can not have in redynes to appere at suche conuenient tyme as the forseid Jurrye shall hapen to appere before the seid Justices to trye the seid seuerall issues in the forseid accions. Might yt therfore please your good lordship the premysses considerit not onely to graunt seuerall Wryttes of suppena<sup>36</sup> to be directyd vnto the seid George Clerke

so to do) and speaks in the Case, or privily labors the jury, or stands there to surveigh or overlook them, thereby to put them in fear and doubt of the matter; the Penalty whereof is £20 and Imprisonment at the Justices' Discretion by the afore cited statute' (ib.).

<sup>33</sup> Apparently 'and' omitted.

<sup>34</sup> Unless this case was transferred from the Court of Chancery to the Star Chamber, the inference is that these papers became accidentally mixed by Sir Thomas More with his papers belonging to that court. But that it probably was intentionally transferred may be surmised

from the fact that the statute 'Pro Camera Stellata' (3 Hen. 7, c. 1) specifies 'onlawfull mayntenances' and 'embra- ciaries of his (the king's) subgettes' as within the jurisdiction assigned by that statute to the Star Chamber, both of which offences have been alleged in this petition.

<sup>35</sup> An offence for the suppression of which the Star Chamber was held to have authority as being the King's Council. See 'Select Cases in the Star Chamber' (Selden Society, 1902), p. cxxxv, nn. 2-4.

<sup>36</sup> On the writ of Subpœna as issued by the Star Chamber see ib. pp. xxiv-xxviii.

Edmond Feld Thomas Feld Wylliam Chapell Roger Chapell and Rychard Chapell comaundyng them and euery one of them by vertue of the same personally to appere before your lordship in the kynges most honorable Courte of Chauncery at a certen day and vnder a certen payn by your lordship to be lymytted ther to make aunswere to the premysses, but also to comaunde and inyone<sup>37</sup> the seid George clerke Edmond Feld Thomas Feld Wylliam Chapell Roger Chapell and Richard Chapell and euery one of them that they nor no oder person or persons in their names nor in the name of any of them doo no furder procede in the seid seuerall accions agaynst your seid oratours vnto such tyme the matter conteyned in this bill of Petycion<sup>38</sup> be furder ordred determynd and endyd by your seid lordship in the seid Courte of Chauncery according to right and conscience, and your seid Oratours shall daily pray for your good lordship estate long to endure.

Per BRADSHAWE.<sup>39</sup>

(*Indorsed*) Cade versus Clarke et alios.

(*And in a later hand*) Cade et al. *v.* Clarke et al.

Scilicet Coram domino Rege in Cancellaria sua in Octabis sancti Hillarii<sup>40</sup> proximo futuris.

<sup>37</sup> Enjoin. The Star Chamber, as well as the Court of Chancery, issued injunctions (see *ib.* sub 'Index of Subjects,' 'Injunction'). Cowel defines 'Injunction' as 'a Writ grounded upon an Interlocutory Order in Chancery. . . to stay proceedings in a cause upon Suggestion made that the rigour of the Law, if it take place, is against equity and conscience in that case.'

<sup>38</sup> More generally called in the Star Chamber 'Bill of complaint.' See 'Select Cases in the Star Chamber' (1902), p. xix.

<sup>39</sup> An order in Chancery at least as old as Henry V. lays down: 'Quod nullus scribens ad sigillum primum proecessum (videlicet) breve de subpœna ad comparandum (*sic*) conficiat et ad sigillum producat priusquam billam eum manu unius Consiliariorum barram Cancellarie frequentaneium recipiat et in filum cancellarie imponat.'—G. W. Sanders, 'Chancery Orders' (1845), 7 d. G. Spence, 'The Equitable Jurisdiction of the Court of Chancery' (1846), i. 369 n. (g). This is the signature of Henry Bradshaw, or Bradshaw, who was admitted into the Society of the Inner Temple from 'Barnardes Ynne' on April 25, 1521 (F. A. Inderwick, 'Calendar of the Inner

Temple Records' [1896], i. 62). In 1529 he and three others were fined 20s. each and temporarily rusticated for quarrelling (*ib.* p. 94). He was a member of the Bench in 1534 (*ib.* p. 108); was elected Reader on May 18, 1536 (*ib.* 113), and on November 6, 1541 (*ib.* p. 129); and succeeded William Whorwood as Solicitor-General in the same month. As a consequence of this, though he appears to have exercised his office of Reader during one Term, he procured a letter from the king 'to be discharged from reading' in Lent 1542. The Society, nevertheless, ordered 'that Master Bradshawe should read in Lent for his second reading or else the House will be destitute of reading, notwithstanding the King's letter, for the said letter was delivered in Hilary Term and should have been delivered in Michaelmas Term before' (*ib.* 130). On November 3, 1544, he was elected Treasurer (*ib.* p. 136); a second time on November 7, 1546 (*ib.* 144). He had been appointed Attorney-General in succession to Whorwood on June 18, 1545 (J. Haydn, 'Book of Dignities' [ed. 1890], p. 398). He continued Attorney-General until May 21, 1552, when he became Chief Baron of the Exchequer. 'In June 1553 he witnessed King Edward's will settling the Crown on

B. The Aunswer of George Clarke Edmunde Feld Thomas Felde Wylliam Chapell Roger Chappell and Rycharde Chapell To the byll of Complaynt of Thomas Cade Clarke and other.

The seid George Clarke Edmunde Felde Thomas Felde Wylliam Chapell Roger Chapell Richarde Chapell seyn and every of them seith that the seid byll of Complaynt ys incertane and insufficyent in the lawe to be aunswered vnto.<sup>1</sup> And the matter therein conteynynd faynyd and vntruly and Sclaunderusly Contryvyd and Imagynynd by the seid Complaynautes to putt the seid defendautes and every of them to iniust vexacyon Costes and expences and that the seid Complaynautes entendyng by the vntrue surmyses of the said byll to delaye the seid poure defendautes of and for the pursuyng of suche accions as the sayd defendautes now haue hangyng against the seid playntyffes as by ther seid vntrewe byll of Complaynt more att large playnly is specyfyed. Which delay ys to the vtter vndoyning and inpoverysshying of your said poure defendautes for ever Onles som good and Charitable order theren may be takyn with expedicion in the premissis Neuerthelesse for Answer and For a forder declaracion of the Trewthe herin to be hadde The seid defendautes sayth that Trewth it is that the seyde Thomas lord Cardenall and Comandatory of the exempt Monastery of Seynt Albons nowe decessyd was seassed of and in the Manour of Sanderugg with appurtenances in the County of Hertf<sup>r</sup> as in the ryght of the seid Monastery in maner and fowrme as in the said byll of Complaynt is mencionyd And that att a Court holdyn at the seyde Manour the ix<sup>th</sup> day of Apryll the xvij<sup>th</sup> yere of the reign of our Souereng lord the kyng that now is<sup>2</sup> through the grett prouocation and Malycyous Mocyon before purpensed by the seid Thomas Cade Clarke then survaeyour vnto the said lord Cardynall and by the procurement Also of the seyde Robert Thrale the Elder and Robert Thrale the yonger his son namyed and in the seyde byll The said Robert thrale the elder Then beyng fearmour also of the seid lordschip and Cheyf Adherent and frende of the seid Cade and beryng grett Malyce vnto the forseyd George Clarke edward Clarke<sup>3</sup>

Lady Jane Grey, and would probably have been removed from his place by Queen Mary, had not death overtaken him three weeks after her accession. He died July 27, 1553.' See further, E. Foss, 'Lives of the Judges' (1857), v. 292. His name does not occur in the 'Dict. Nat. Biog.'

<sup>40</sup> That is, on the eighth day including the day of the Feast, which was January 13, so that the date appointed was

January 20, 1531 (J. J. Bond, 'Handy-book of Dates').

<sup>1</sup> On the demurrer for uncertainty and insufficiency see 'Select Cases in the Star Chamber' (1902), pp. xxix, xxx.

<sup>2</sup> 1526.

<sup>3</sup> This name 'Edward Clarke' has not appeared before and is probably due to careless draughting, the name presumably intended being that of 'Edmund Feld.'



and other of the defendauntes by reason of an olde rancor and malyce hat he the said Robert Thrale thelder always haith hadde before ymes Towardes on John Clarke thelder father of the seid George and or the grett lucre and insaciete Covetouse mynde that the said Cade hade towardes his seid lordes moste aduauntage and profite emonge other thinges yt was yeuen in charge to the homage ther by on Richarrd<sup>4</sup> Marschall Gentleman then beyng Steward of the seid manour in the presens of the sayd Cade Robert thrale the elder and Robert thrale his son to Inquere yf ther were any bondemen regardaunt or in grose<sup>5</sup> to the seid Manour of Sandruge belonging or no After which Charge to inquire so gyfyn by the seyd Steward the seid homage by good delyberacyon descretly as wyse men amonges them selves inquired specyally among all other matters of the seid Article And so of all suche articles accordyng to ther sayd charge and accordyng to ther Concyens and knowleg the same homage then and thare made presentment by the which presentment yt shall apere that thay presentyd not that the sayd defendantes or any of Theym were bond of blode but the sayd defendauntes seyen that Richard elyes by the Comaundment of the sayd Thomas Cade now Complaynaunt intred in to the Court Rolles that the same defendauntes were bound regardaunte to the sayd maner without the knowlege assent or presentment of the sayd homage Without that the sayd homage dyd present or gafe any maner of verdict prively or oppynly at any Court holdyn vnder Asshe within the said Monastery or att or within any other place in maner and forme as in the said byll is vntrewly surmyttyd. And without that That ever the sayd homage in the howse of one Thomas Baker within the said Towne of Seynt Albons dyd requyer the sayd Robert Thrale the yonger to go with them to wryte any such presentment or varytt or any other presentment in maner and forme as is also in the sayd byll of Complaynt vntrewly supposyd And without that the sayd Robert thral<sup>6</sup> the younger at any tyme was requyreyd or comaundyd by the seyd homage to wryte any suche presentment or varytt as the house of the sayd Baker or in any other place or that the sayd Robert thrale receyvyd or had any peny of the seyd homage for wrytting of

<sup>4</sup> Doubtless a mistake for 'William,' see A, n. 11, on p. 186 supra. It is in itself much more probable that Cade, who must have been constantly in contact with him, was correct. William Marshall had a son 'Richard' who was admitted to Lincoln's Inn in 1511 ('Black Books,' i. 164).

<sup>5</sup> See Introduction, pp. cxxvii-cxxxii.

<sup>6</sup> This spelling suggests the origin of

the name 'Thrale' as 'thrall,' in which case we have a linguistic record of the evolution from bondage in blood to bondage regardant. It was from this family that Henry Thrale, the brewer, M.P. for Southwark and husband of Dr. Johnson's friend, probably descended (Cussans, 'Hundred of Cashio,' p. 227).

any such presentment in maner and forme as is also in the sayd byll vntruly allegyd And wythout that that the sayd homage euer Came with any suche presentment in wrytyng wherin the sayd defendauntes or any of theym were bound of blode to delyuer vnto the sayd Cade or that the sayd Cade dyd receyve or rede any such presentment in wrytyng or ther delyuere in maner and forme as is also specyfyed in the sayd byll And without that that the sayd Cade deliueryd vnto the sayd homage any such presentment to bare vnto on Elys thein beyng Clarke of the Courtes and depute vnto the said Steward or that the sayd homage at any tyme dyd delyuer or take any such presentment for to enter ther or in any other place in maner and forme as in the said byll ys forder alleggyd. And without that that any Copes<sup>7</sup> were made and delyueryd vntrewly for vexaccion or for lucre owte of the Court roulles by the sayd elys vnto the sayd George Clark edmund Feld and other the sayd defendauntes as in the said byll is Contynyd And without that that the sayd elys other wyse then trothe dyd any thyngsaye or afferme in that behalff vnto the sayd George Clarke and edmund Feld and to other the sayd defendauntes but that the same presentment was entred in to the sayd Rolles by the only Comaundment of the sayd Cade Robert thrale thelder and Robert thrale the yonger and not the verdytt nor presentment of the sayd homage And without that the sayd Elys ever dyd entre or hadd entryd the same vntrew presentment butt onely by procurement and Comaundement of the sayd Thomas Cade And without that that any of the sayd Acciones now hanggyng in any of the sayd kynges Courtes wer ever Comensyd agenst the sayd pleyntyffes ether for malesse of beryng of any person or persons but only for the declaracion of the said defendauntes of the same vntrue and false Slander And to be recompensyd by the law in damage of and for the losse of ther good name and fame in that behalff sustynyd And without that that any Thyng Contynyd in any of the sayd Accions ys vntrew And without that that any vntrewe meaning is thought or supposyd of and for the layng of the venew or issue at Stevenege aforesayd but only to have an indefferent Jury or Juryes owt of the libertys of the sayd Monastery of and for the indefferent and trewe tryall of the premisses in euery of the sayd Accions without beryng of frendes or other wise as in the sayd byll is Contyned And without that that any other thyng Contynyd in the sayd byll ys matteryall to be aunswered vnto. All which matters the sayd defendauntes ar reddey to prove as this most honorabyll Court wyll award And prayth to be remytted to the Commen law with ther

<sup>7</sup> Copies.

reasonable Costes therin wrongfully Susteynyd in this behalff And the sayd poure defendeunttes daly shall pray for goode Contynuanee of your sayd prosperus astate longer to indure.

(No indorsement.)

C.<sup>1</sup> \* The Replication <sup>a</sup> of Thomas Cade Clarke <sup>b</sup> Robert Thrale thelder and Robert Thrale the yonger to thanswer <sup>c</sup> of george Clarke <sup>b</sup> Edmund <sup>d</sup> Feeld Thomas Feeld <sup>e</sup> William Chappell Roger Chappell and Richard <sup>f</sup> Chappell.

The seid <sup>g</sup> Thomas Cade Robert Thrale thelder <sup>h</sup> and Robert Thrale the yonger Sayen and euery of them sayethe <sup>i</sup> and auerythe all and euery thyng mencyoned <sup>j</sup> and expressed in their <sup>k</sup> seid <sup>g</sup> bille <sup>l</sup> of Complaynt <sup>m</sup> agenst the seid <sup>g</sup> defendauntes and euery of them <sup>n</sup> to be good and true in euery thyng materiall <sup>o</sup> therin <sup>p</sup> conteyned and declared and that they and euery of them been Redy to prove justefye <sup>q</sup> and maynteyn <sup>r</sup> the same as this honorabill <sup>s</sup> Courte <sup>t</sup> wull <sup>u</sup> awarde <sup>v</sup> and they and euery of them prayen in euery thyng as they have <sup>w</sup> heretofor prayed in ther seid <sup>g</sup> bille <sup>l</sup> of Complaynt <sup>x</sup> wythowght <sup>y</sup> that the seid <sup>g</sup> Thomas Cade Robert Thrale thelder <sup>h</sup> and Robert Thrale the yonger or any of them for ony <sup>z</sup> malice <sup>aa</sup> lucour <sup>bb</sup> or insaucyatt <sup>2</sup> <sup>cc</sup> Covetous Meend that the seid <sup>g</sup> Thomas Cade or ony <sup>z</sup> of them hadd towardes the proffytt <sup>dd</sup> of the seid <sup>g</sup> Cardynall or for ony malice <sup>ee</sup> that they or ony of them bare <sup>ff</sup> to the seid <sup>g</sup> defendauntes or ony of them or towardes oon John Clarke <sup>gg</sup> Father to the seid george Clarke <sup>hh</sup> procured the seid <sup>g</sup> William <sup>ii</sup> Marshall to yeve in Charge at the seid <sup>g</sup> Courte <sup>jj</sup> holdyn at Saunderygge to the homage ther <sup>kk</sup> to enquire <sup>ll</sup> yf ther <sup>kk</sup> war <sup>ff</sup> ony bondemen appendaunte or engroce <sup>3</sup> to the seid <sup>g</sup> maner of Saunderygge belonging <sup>mm</sup> in maner <sup>nn</sup> and Forme as they have vntreuly <sup>oo</sup> surmytted in their <sup>kk</sup> seid <sup>g</sup>

\* Bundle 20, No, 349, is a duplicate. Variant readings appear below :

<sup>a</sup> Replycacion.

<sup>b</sup> Clerke.

<sup>w</sup> heue.

<sup>x</sup> Complaynte.

<sup>c</sup> thanswere.

<sup>d</sup> edmund.

<sup>y</sup> wythowt.

<sup>z</sup> any.

<sup>e</sup> feld.

<sup>f</sup> Rycharde.

<sup>aa</sup> mallice.

<sup>bb</sup> lucor.

<sup>g</sup> seyde.

<sup>h</sup> the elder.

<sup>cc</sup> insauciatt.

<sup>dd</sup> proffit.

<sup>i</sup> seyethe.

<sup>j</sup> mencioned.

<sup>ee</sup> mallyce.

<sup>ff</sup> ware.

<sup>k</sup> theyr.

<sup>l</sup> byll.

<sup>gg</sup> clerke.

<sup>m</sup> complaynt.

<sup>n</sup> theym.

<sup>hh</sup> This and the five preceding words are omitted.

<sup>o</sup> materyally.

<sup>p</sup> therein.

<sup>ii</sup> Wylliam.

<sup>jj</sup> Court.

<sup>kk</sup> there.

<sup>q</sup> justifie.

<sup>r</sup> maynteyne.

<sup>ll</sup> enquire.

<sup>mm</sup> belonggyng.

<sup>s</sup> honorable.

<sup>t</sup> Cort.

<sup>nn</sup> manner.

<sup>oo</sup> vntreuly.

<sup>u</sup> wyll.

<sup>v</sup> award.

<sup>1</sup> Folio b.

<sup>2</sup> insatiate.

<sup>3</sup> See Introduction, pp. cxxvii-cxxxi.



answer<sup>pp</sup> and wytheowght<sup>y</sup> that the seid<sup>s</sup> Thomas Cade Cummaundyd the seid<sup>s</sup> Elys<sup>qq</sup> to enter into the Courte<sup>rr</sup> Rollys<sup>ss</sup> of the seid<sup>s</sup> maner<sup>tt</sup> ony Suche vntrewe presentement as they have vntruly surmytted<sup>uu</sup> in their<sup>vv</sup> seid<sup>s</sup> answer<sup>pp</sup> or that the seid Thomas Cade Cummaundyd<sup>ww</sup> the seid<sup>s</sup> Elys<sup>xx</sup> wytheowght<sup>y</sup> the knowelegge<sup>yy</sup> assente and presentement of the seid<sup>s</sup> homage to make ony maner of Entree<sup>zz</sup> into the seid<sup>s</sup> Courte<sup>jj</sup> Rolles of the seid<sup>s</sup> maner, Concernyng ony vyllenage agenst the seid<sup>s</sup> defendauntes or ony of them otherwise<sup>aaa</sup> than was presentyd<sup>bbb</sup> by the seid<sup>s</sup> hoole homage as ys<sup>ccc</sup> aforeseid<sup>ddd</sup> as the same homage deed pleynty Shewe and declare vnto the seid<sup>s</sup> Thomas Cade the same to be their trewe verduytt as the same Thomas Cade hathe<sup>eee</sup> affermyd and declared in the seid<sup>s</sup> bylle<sup>1</sup> of Compleynt And wytheowght that ony other thyng materiall<sup>o</sup> in the answer<sup>pp</sup> of the seid<sup>s</sup> defendauntes ys true otherwise<sup>aaa</sup> then in this Replicacion and bylle<sup>1</sup> of Compleynt<sup>m</sup> ys Confessyd<sup>fff</sup> avoyded<sup>ggg</sup> or Trauersyd<sup>hhh</sup>.

(No indorsement.)

D. <sup>1</sup> Expenc' pro Willelmo Chapell versus Cade Thrale et alios.

Termino Pasche anno Regni  
Regis Henrici octau<sup>i</sup> xxij<sup>o</sup>. <sup>2</sup>

In primis pro breue originali <sup>3</sup> et Sigillo in Cancellaria	. ijs. vjd.
Item pro Capias <sup>4</sup> et Sigillo	. . . . . ijs. vjd.
Item pro alias <sup>5</sup> Capias inde	. . . . . ijs. vjd.
Item pro feodo attornati	. . . . . iijs. iiijd.
Summa	. . . . . xs. xd.

<sup>pp</sup> answer.	<sup>qq</sup> Elye.	<sup>rr</sup> eowrte.	<sup>aaa</sup> other wyse.	<sup>bbb</sup> presented.
<sup>ss</sup> Rollis.	<sup>tt</sup> manner.		<sup>ccc</sup> is.	<sup>ddd</sup> aforeseyd.
<sup>uu</sup> surmyttyd.	<sup>vv</sup> ther.		<sup>eee</sup> hath.	<sup>fff</sup> eonfessid.
<sup>ww</sup> eummaunded.	<sup>xx</sup> elye.		<sup>ggg</sup> avoydid.	<sup>hhh</sup> trauersid.
<sup>yy</sup> knowlegge.	<sup>zz</sup> entre.		Bundle 20, No. 349, is not indorsed.	

<sup>1</sup> S.C.P. Hen. 8, vol. viii. f. 229. Ib. vol. x. ff. 8, 9 are a duplicate, but are headed 'Expene' pro Edwardo Clere versus Cade Thrale et alios.'

<sup>2</sup> Easter Term began seventeen days after Easter Day, i.e. Wednesday fortnight after Easter Day, and ended four days after Ascension Day, being the Monday three weeks following. This bill of costs probably belongs to April 1531. In that year Easter Day was on April 9. Easter Term began, therefore, on April 26. This was in 22 Henry 8, which began on April 22.

That this, and not 1532, when Easter Term, 23 Henry 8, began on April 17, is the year is evident from the fact that the next bill is for Trinity Term, 23 Henry 8, which was undoubtedly June 1531. Trinity Term, 1531, began on Wednesday after Corpus Christi Day, which in that year fell on Thursday, June 8, i.e. on June 14 and ended on July 5 (J. J. Bond, 'Handy-book of Dates').

<sup>3</sup> 'The proceess in ancient times comprised a variety of different writs, of different degrees of stringency, issued

Termino Trinitatis anno xxiiij<sup>o</sup>.<sup>6</sup>

Item pro intrac(ione) narrac(ionis) et imparlanc' <sup>a</sup> .	. vjs. <sup>7</sup>
Item pro Copia inde . . . . .	. iijs. iiijd.
Item pro feodo attornati . . . . .	. iijs. iiijd.
Summa . . . . .	. xijs. viijd.

Termino Michaelis<sup>8</sup> anno xxiiij<sup>o</sup>.<sup>9</sup>

Item pro consilio ad faciendum placitum ad replicandum, videlicet,	
Item Magistro Hynd <sup>10</sup> . . . . .	. iijs. iiijd.
Item pro fact' papiro <sup>11</sup> . . . . .	. vjs. viijd.
Item pro feodo attornati . . . . .	. iijs. iiijd.
Summa . . . . .	. xiijs. iiijd.

Termino Hilarii<sup>12</sup> anno xxiiij.<sup>13</sup>

Item pro continuacione de le imparlanc' . . . . .	. iiijd.
Item pro consilio ad iungendum exitum in papir' <sup>14</sup> . . . . .	. xxs.
Item pro papir' fact' <sup>15</sup> . . . . .	. vjs. viijd.
Item Copia eiusdem papir' . . . . .	. iijs. iiijd.

<sup>a</sup> Volume x. folio 8:—imparlaunc'.

consecutively upon each other, where the first for any reason failed to be effectual. But it always began with an Original Writ, which was an instrument issued out of Chancery in the name of the Sovereign under the Great Seal' (H. J. Stephen, 'New Commentaries' [1863], iii. 583).

<sup>4</sup> Blackstone, writing of the Court of Star Chamber and its abuses, says: 'A writ of *capias* was permitted in all actions on the case.' The defendant remained in custody until he had given bail to the Sheriff for appearance. Hence, the full designation of this writ was '*capias ad respondendum*' ('Commentaries,' Bk. IV. chap. xxxiii. p. 422).

<sup>5</sup> Sic. This second '*capias*' would presumably be a '*capias ad satisfaciendum*,' defined by Cowel ('Interpr.' s.v.), as 'a Writ of Execution after Judgment, lying where a man recovers in an action personal and he against whom the debt is recovered hath no Lands nor Tenements, nor sufficient Goods whereof the debt may be levy'd. For in this case, he that recovereth shall have this Writ to the Sheriff commanding him that he take the Body of him against whom the Debt is recovered, and he shall be put in Prison until satisfaction made.'

<sup>6</sup> See note 2, *supra*.

<sup>7</sup> 'For filing the bill of complaint and for an interlocutory motion.' 'Imparlance,

Interlocutio vel interloquela, is a motion made in Court upon the...Declaration of the Plaintiff by the Defendant, whereby he craveth Respite, or any other day to put in his Answer' (Cowel, 'Interpr.').

<sup>8</sup> Michaelmas Term, 1531, began on the fourth day of the Octave of St. Michael, i.e. October 9, and ended on November 28 (J. J. Bond, 'Handy-book,' &c.).

<sup>9</sup> 1531.

<sup>10</sup> John Hynd, or Hynde of a family seated at Madingley, Cambridgeshire; a barrister of Gray's Inn, of which he was at this time Reader; King's serjeant, January 2, 1535. By the statute 34 & 35 Hen. 8, c. 24, John Hynde was enfeoffed in fee of the manor of Burlewes, otherwise called the 'Shyre Manor,' in Madingley, charged in perpetuity with the payment of 10*l.* a year towards the wages of the two knights of the Shire for the county of Cambridge. Appointed Justice of Common Pleas and knighted 1545; died October 1550 (Foss, v. 303).

<sup>11</sup> Presumably the draught of the replication. This is evident from the item below, '*copia eiusdem papiri*.'

<sup>12</sup> Hilary Term, 1532, began on January 23, and ended on February 12 (J. J. Bond, 'Handy-book,' &c.). <sup>13</sup> 153½.

<sup>14</sup> For draughting the joinder of issue.

<sup>15</sup> Presumably for ingrossing.

Item pro intracione placiti cum Magistro Ienour <sup>16</sup>	. xs.
Item pro feodo attornati . . . . .	. iijs. iiijd.
Item pro venire facias <sup>17</sup> . . . . .	. iijs. iiijd.
Item pro retorno inde <sup>18</sup> . . . . .	. ijs.
Summa . . . . .	. xlvijjs.

Le costes in le Chauncery and sterre Chamber post breue Iniunctionis deliberatum prefato Willelmo <sup>b</sup>

In primis pro feodo attornati . . . . .	. xx <i>d</i> .
Item pro Copia bille . . . . .	. vjs. viij <i>d</i> .
Item Magistro Hynd . . . . .	. iijs. iiij <i>d</i> .
Item Clerico Magistr(i) Densell <sup>19</sup> pro scriptura re-sponsionis . . . . .	. iijs. iiij <i>d</i> .
Item pro misis et Custagiis <sup>20</sup> hoc termino . . . . .	. xx <i>s</i> .
Summa . . . . .	. xxxv <i>s</i> .

<sup>b</sup> Volume x. folio 8: Edwardo.

<sup>16</sup> This was John Jenoure, one of the Protonotaries of the Common Pleas. He belonged to a family seated at Stonham Aspell, Suffolk, and acquired the manor of Bigods or Alfreton, Great Dunmow, Essex, in 1529 (P. Morant, 'Hist. of Essex' [1758], ii. 426. Cf. L. and P. Hen. 8, xii. ii. 1150 [10]). In June 1510 and until 1542 he was constantly nominated a justice of assize and commissioner of jail delivery on the Midland Circuit and at Lincoln (L. and P. Hen. 8, xvii. 443 [40], cf. ib. i. 1101). In the assessment of the lay subsidy of 1523 he was rated as worth 200*l*. 'in bonis' and his contribution to the subsidy was fixed at 10*l*. ('Cal. of Inner Temple Records,' edited by F. A. Inderwick, 1896, i. 462). He was nominated on the commission of the peace for Essex in 1538 (L. and P. xiii. i. 1309, 24) and subsequent years. He died September 18, 1542 (Morant, p. 426). His will describes him as of 'St. Bryde, Temple, London; Roudham, Suffolk, and Donmowe, Essex' (J. C. C. Smith, 'Index of Canterbury Wills').

<sup>17</sup> 'Venire facias is a Writ Judicial directed to the Under-Sheriff, and goeth out of the Record, and lies where two Parties plead, and come to Issue; for then the Party, Plaintiff or Defendant, shall have this Writ directed to the Sheriff, to cause twelve Men of the same County to say the truth upon the Issue taken' (Cowel, 'Interpr.').

<sup>18</sup> 'For the return in that behalf,' i.e. to the Writ.

<sup>19</sup> John Densell, Denysel, &c., was descended from a family settled in Cornwall

as early as 1271 (Sir J. Maclean, 'History of Trigg Minor' [1879], iii. 278, n. 3). He was son and heir of Remfry Denysell by the sister and co-heir of John Skewys of Skewys (ib. 385, 386). From his father he inherited the manor of Polrode, Cornwall (ib. 334). He was admitted to Lincoln's Inn on February 24, 150 $\frac{3}{4}$  ('Linc. Inn Admission Register,' p. 30). He was of a sportive disposition, for on the very same day he was 'put out of commons for hunting Coneyes in the warren of the Inn' ('Black Books of Linc. Inn,' i. 131). This characteristic perhaps accounts for his election as Master of the Revels at Michaelmas, 24 Henry 7 (1508), and for his being fined in 1514 twenty pence 'for losing a moot' (ib. p. 175). But in 1517 he was one of the Auditors of the Inn (ib. 184) and was elected a benchler in February 1520 (ib. 192), in which year he was made Keeper of the Black Book, and again in 1524 (ib. 179, 211). On November 1, 1523, he was elected Autumn Reader (ib. 206). He shewed his zeal for the king by advancing a loan in anticipation of the subsidy voted by Parliament in April 1523 (ib. 207). He was elected Treasurer of the Inn on November 1, 1528 (ib. 221). Early in 1531 he was called serjeant-at-law and was elected Lent Reader (ib. 229). He died on January 3, 153 $\frac{5}{6}$  (Maclean, p. 335). After his death the Inn applied to his widow for a copy of Bracton, which he had borrowed from the Library ('Black Books,' i. 245), apparently as long before as 1532 (ib. 233). He married Mary, daughter of Sir Thomas Lacy, by whom he left two daughters, Anna, aged seventeen,



Termino Trinitatis anno xxiiij<sup>to</sup> 21

Item pro consilio in e ster Chamber, videlicet, Magistro

Hynd . . . . . iij*s*. iiij*d*.Item, Magistro Chydley<sup>22</sup> . . . . . iij*s*. iiij*d*.Item fact(ura) papiris<sup>23</sup> replicationis . . . . . vs.Item pro scriptura eiusdem<sup>24</sup> . . . . . iij*s*. iiij*d*.

the wife of William Hollys, ancestress of the Parliamentary leader Denzill Hollis, first lord Hollis, and Alice, aged nine. His wife survived him (Maclean, p. 334).

<sup>20</sup> 'Misa, æ. Vox forenseca a Gallico "mise," id est, expensus. Hinc crebro in formulis juris "pro misis et custagiis."

'Custagium, et (ni fallor) Custa. A Gallico "coust" et "coustange." Voces fori, Expensæ' (H. Spelman, 'Glossarium Archæiologicum' [ed. 1687]).

<sup>21</sup> Began June 18, ended July 9, 1532. See note 2, *supra*.

<sup>22</sup> Robert Chydley, Chidley, Chydlegh, Chudley, &c., was a member of the Inner Temple in 1513, when, on account of the prevalence of the plague in London, he was excused from keeping Term ('Inner Temple Records,' i. 28, 29). On June 22, 1515, he was excused his non-residence during the previous Christmas Vacation 'because he was with his father at the time of his death' an evidence that he was not a Londoner (ib. 34). He was auditor of the Treasurer's accounts in 1523 and at intervals during the following ten years (ib. 71, 104 &c.), and was deputy-Treasurer in 1526 (ib. 86) and Reader in 1529 (ib. 93) and 1537 (ib. 114, 115). In 1533 he was a Bencher (ib. 102) and one of those selected as 'Governor' in 1542 (ib. 131). He was Treasurer in 1543 (ib. 130). From 1533 until June 1567 he was constant in his attendances at parliaments &c. (ib. 243 &c.). He was made serjeant-at-law in 1540 (ib. 124). A James Chudleigh was regularly on the commissions of the peace for Devonshire until July 1515, when his name, which had been included in a list of the previous June, was omitted (L. and P. Henry 8, ii. 625, 709). The coincidence that Robert Chydley's father died in the Christmas Vacation, 1515-16, suggests that he was James Chudleigh, and we know that Sir James Chudleigh, knight, of Ashton, Devon, had a son Robert by his second marriage (see T. Westcote, 'View of Devonshire,' ed. 1845, p. 463). A list of costs of 1531 shows that Chidley practised in the Court of Chancery (L. and P. v. 672). He was probably the Robert Chudeley who was on the commission of the peace for Devon in 1532 (ib. 1694), for he is upon it again as

'Chydleye' in 1538 (ib. xiii. i. 1519 [30]) and 1540 (ib. xvi. 580 [90]). As Robert Chidley, he was in 1536 a creditor of the King (ib. xi. 1419, iii.). He was on the commission of oyer and terminer for London in February 1538 (ib. xiii. i. 384 (90)) and a commissioner of gaol delivery for the City in March 1538 (ib. 646 (29)) and 1540 (ib. xvi. 305 (28)). He was appointed attorney-general to Queen Anne of Cleves early in 1540 (ib. xv. 21). Presumably he belonged to the Roman party in matters of religion, for on January 29, 1541, he was nominated a commissioner for heresies and offences done within the City (ib. xvi. 494). His reward was the office of Attorney of the Court of First-Fruits and Tenths, with a salary of 40 marks (26*l*. 13*s*. 4*d*.) a year (ib. 580 (26) and xviii. i. 802 (41)). He was on December 12, 1541, one of the commissioners for taking the indictments in Surrey, Middlesex, and Kent of Lord William Howard and others for misprision of Treason in the case of Queen Katharine Howard (ib. 1470). He appears on the commission of the peace for Middlesex for the first time in January 1543 (ib. xviii. i. (21)). He contributed 40*l*. by way of loan for the King's expedition against France in 1544 (ib. xix. ii. 328 (9)), and in September of the same year obtained a grant in fee for 1200*l*. 15*s*. 10*d*. of the lordships and manors of Lytle Wynsour and Burstocke, Dorset, with all possessions of the monastery of Ford in those places (ib. 340 (40)). That his wealth was increasing is also shown by a conveyance in fee to him and to his wife Elizabeth, in March 1545, of 'the Abbot of Glastenburyes howse in West Smythfeld, twelve messuages in 'Coklane,' a messuage in Cowlane, twenty messuages in Hosyar Lane, all in St. Sepulchre's parish, 'the Crowne Inn in Warwick Lane and a rent of 20*lb*. of pepper from the tenement of Antony Vyvald in St. Sith's Lane.' After this date his name disappears from the Letters and Papers, but I have not been able to ascertain the date of his death.

<sup>23</sup> Sic. Presumably this entry is for draughting the replication.

<sup>24</sup> This high charge for writing shows that the clerk's was a fine art.

Item pro feodo attornati	. . . . .	. xxd.
Item pro misis et Custagiis hoc termino	. . . . .	. xxs.
Summa	. . . . .	. xxxvjs. viid.

Termino Michaelis anno xxiiij<sup>to</sup> 25

Item pro consilio hoc termino	. . . . .	. xs.
Item pro examinacione decem testimoniorum	. . . . .	. xxs.
Item pro copia examinacionis	. . . . .	. vs.
Item pro feodo attornati	. . . . .	. xxd.
Item pro misis et Custagiis hoc termino	. . . . .	. xxs.
Summa	. . . . .	. iijli. xxd.

Termino Hilarii anno xxiiij<sup>to</sup> 26

Item pro consilio supradicto termino <sup>c</sup>	. . . . .	. xs.
Item pro feodo attornati	. . . . .	. xxd.
Item pro misis et Custagiis hoc termino	. . . . .	. xxs.
Summa	. . . . .	. xxxjs. viijd.

Termino Pasche anno xxv<sup>to</sup> 27

Item pro consilio supradicto termino	. . . . .	. xs.
Item pro feodo attornati	. . . . .	. xxd.
Item pro misis et Custagiis	. . . . .	. xxs.
Summa	. . . . .	. xxxjs. viijd.

Termino Trinitatis anno xxv<sup>to</sup>

Item pro consilio	. . . . .	. xs.
Item pro feodo attornati	. . . . .	. xxd.
Item pro misis et Custagiis	. . . . .	. xxs.
Summa	. . . . .	. xxxjs. viijd.

Termino Michaelis anno xxv<sup>to</sup>

Item pro consilio supradicto termino	. . . . .	. xs.
Item pro feodo attornati	. . . . .	. xxd.
Item factura de le decre <sup>28</sup>	. . . . .	. xiijs. iiijd.
Item pro Copia inde	. . . . .	. vs.
Item pro misis et Custagiis hoc termino	. . . . .	. xxxs.
Summa	. . . . .	. iijli.

<sup>c</sup> Volume x. folio 9 adds: Hilarii.

<sup>25</sup> Oct. 9–Nov. 28, 1532.

<sup>26</sup> Jan. 23–Feb. 12, 1533.

<sup>27</sup> April 30 to May 26, 1533.

<sup>28</sup> Presumably the fee to the Clerk of the Star Chamber.

Expenc' pro Rogero Chapell versus Cade Thrale et alios.

Termino Pasche anno Regni  
Regis Henrici octauī xxii<sup>cio 29</sup>

In primis pro consilio ad tractandum bill(am) coram domino de	
Wiltēs <sup>30</sup> versus Cade et alios . . . . .	. xxs.
Item pro breue Originali et sigillo in Cancellaria . . . . .	. ijs. vjd.
Item pro Capias et Sigillo . . . . .	. ijs. vjd.
Item pro alias Capias inde . . . . .	. ijs. vjd.
Item pro feodo attornati . . . . .	. iijs. iiijd.
Summa . . . . .	. xxxs. xd.

Termino Trinitatis anno xxii<sup>o 31</sup>

Item pro intrac(ione) narracion(is) et imparlanc' . . . . .	. vjs.
Item pro Copia inde . . . . .	. iijs. iiijd.
Item pro feodo attornati . . . . .	. iijs. iiijd.
Summa . . . . .	. xijs. viijd.

Termino Michaelis anno xxii<sup>cio 32</sup>

Item pro consilio ad faciendum placitum ad replicandum, videlicet,	
Item Magistro Willoughby <sup>33</sup> pro consilio suo . . . . .	. iijs. iiijd.

<sup>29</sup> 1531. See n. 2 supra.

<sup>30</sup> As Lord Privy Seal. On the position of the Lord Privy Seal as a judge in the Star Chamber, see 'Select Cases in the Star Chamber' (1902), pp. xxxiv-xxxvii. Sir Thomas Boleyn (1477-1539) was the second son of Sir William Boleyn of Blickling, Norfolk, and grandson of Sir Geoffrey Boleyn, lord mayor of London in 1457. He was created earl of Wiltshire and Ormonde in 1529, his mother being Margaret, daughter and co-heir of Thomas Butler, earl of Ormonde. On January 30, 1530, he was made Lord Privy Seal. He was the father of Queen Anne Boleyn ('Dict. Nat. Biog.').

<sup>31</sup> See n. 2, supra.

<sup>32</sup> 1531. See n. 8 supra.

<sup>33</sup> Thomas Willoughby, third son of Christopher Willoughby of Brandon, Warwickshire (Dugd. 'Warwickshire,' 32 b), and younger brother of William, seventh baron Willoughby de Eresby. Admitted to Lincoln's Inn on July 16, 1502 ('Linc. Inn Adm. Reg.' i. 30, 'L. I. Black Books,' i. 127). In 1511 and 1515 he was Auditor of the Treasurer's Accounts ('Black Books,' i. 162, 177). He was elected Pensioner on November 1, 1512 (ib. 169), in which office his duty was to collect the 'pensionēs,' or

rents, and to pay wages, &c. (ib. p. xx.; cf. p. 170). In this capacity he was charged in 1516 with extravagance, 'and also for his contempt in not having a red gown when he was Marshal, according to the ancient custom and ordinance of the Inn' (ib. 178). It may be explained that, as Marshal, his function was to preserve order during the revelries at Christmas (ib. xxxi). He was, nevertheless, Autumn Reader on November 1, 1516 (ib. 180), and Lent Reader on February 2, 1518 (ib. 184). He was elected one of the four Governors of the Inn, an office filled from the ranks of the Benchers, and Treasurer on November 1, 1518 (ib. 187). In 1521 he became serjeant-at-law and in 1530 King's serjeant. In 1523 he was a commissioner of subsidy for Kent (L. and P. Henry 8, iii. 3281). His property was valued at 106*l.* in land and his assessment to the subsidy was fixed at 106*s.* ('Inner Temple Records' (1896), i. 465). He and John Baldwin were made knights in 1534, being the first serjeants who had ever accepted that distinction' (Foss, 'Lives,' v. 249). He was raised to the bench as a justice of the Common Pleas on October 9, 1537, and died on September 29, 1545. He was buried at Chillingstone, Kent, where he had acquired the estate of Bore



Item Magistro Wrothe <sup>34</sup>	. . . . .	. ijs. iiijd.
Item Magistro Denesell	. . . . .	. ijs. iiijd.

Place in right of his wife Bridget, daughter and co-heir of Sir Robert Read, Chief Justice of the Common Pleas. That his wife's name was Bridget, and not, 'as some call her, Catherine' (Foss, 249), is apparent from the will of Sir Robert 'Rodes,' proved December 29, 1518, evidently a mistake for 'Read,' the will not having been seen by the editor, in Sir H. Nicolas, 'Testamenta Vetusta' (1826), ii. 560. He probably married about 1514 and received Bore Place as his wife's dower, for on March 3, 1514, his name was placed on the commission of the peace for Kent (L. and P. Henry 8, i. 4847). The probate of his will shows that he also possessed property in Warwickshire, that is, at Brandon. Dugdale, *loco supra citato*; J. C. C. Smith, 'Index of Canterbury Wills.'

<sup>34</sup> A member of the family of Wrothe, or Wroth, of Loughton, Essex (P. Morant, 'Hist. of Essex,' i. 163), and Durance, Enfield, Middlesex. Durance, or Durant's Manor, was so named from Maud, daughter and heir of Sir Thomas Durant, who married John Wroth, temp. Richard 2. (W. Robinson, 'History of Enfield' [1823], ii. 18). Robert Wrothe was the second son and heir male of John Wroth of Enfield (d. 1519) by Joan —. He was appointed a commissioner of subsidy for Middlesex in 1523 (L. and P. Henry 8, iii. 3282). He was also placed on the commission of the peace for that county in the same year (ib. 3495 [18]), and reappointed in subsequent years. Perhaps as a reward for energy in collecting the subsidy, he received in 1524 the grant of the reversion of the stewardship of the manor of Cheshunt, Herts (ib. iv. 213 [17]). He was among the squires and gentlemen who on May 25, 1524, attended the funeral of Sir Thomas Lovell, K.G., who died at his manor of 'Elsynges in Endfeld, Middlesex' (ib. 366). He received from Lovell's executors, as Robert Wroth, a present of 'a gilt cup with a cover, 26½ ounces at 4s.' (ib. 13), not a legacy from Sir Thomas, as the will (printed in Nicolas, 'Testamenta Vetusta,' pp. 640-2) shews. In 1524, he was placed on the commission for collecting the subsidy for the Hundred of Edelmeton, in which Enfield was situate (ib. 969, 4). Searches for suspected persons and criminals in London and the suburbs in 1525 were entrusted to small bodies of commissioners, Wrothe being one of four assigned to the districts of Hackney, Newington, and Kingsland (ib. 1082). He was also a commissioner of sewers for Middlesex in 1529 (ib. 5336 [11]). He appears to have been a

member of the Mercers' Company (ib. 1230 [3]). In 1528 he was 'Autumn Reader' in Gray's Inn ('Gray's Inn Admission Register,' p. 2). His name occurs in a list of practising counsel of this date compiled by Foss ('Lives,' v. 108). He was returned to Parliament for Middlesex on November 3, 1529 (L. and P. Henry 8, iv. 6043). After the fall of Wolsey he was placed at the head of a commission of four members on July 14, 1530, to inquire into the Cardinal's possessions in Middlesex (ib. 6516, 6598). He appears to have been on good terms with Cromwell (in 1532 Master of the King's Jewels), to whom he wrote on October 14 of that year asking him to use his influence with the Abbot of Westminster with regard to a benefice likely to be vacant at Cressehawe in Cambridgeshire (ib. v. 1428, 1691). Cromwell, in return, consulted him informally on points of law (ib. 1692). In the same year he first appears as Attorney-General of the duchy of Lancaster (ib. 1065). His correspondence with Cromwell shows that he was reputed to have influence with him and rather indicates that he was no friend to the clergy (ib. vi. 297). It was perhaps on this account that he was in January 1535 nominated upon commissions for Middlesex and Herts, on the first of which Cromwell was himself a member, to ascertain the 'yearly value of monasteries, parsonages, and other spiritual promotions' (ib. viii. 129, 149 [41], [49]). This was the prelude to the Dissolution of the religious houses. He was gratified in the following February with the stewardship and bailiwick of manors belonging to the Duchy in Edelmeton, Middlesex, with 40s. a year as steward and 6l. 13s. 4d. as bailiff (ib. viii. 291 [10]; cf. xi. 135). He died at some date after Whit-Sunday, May 16, 1535, when he was stag-hunting, and before September 20 following (ib. ix. 478; x. 154), aged forty-one (Robinson's 'Enfield,' i. 145). His will was proved in 1536 ('Index to Canterbury Wills'). He married Jane Hawke, who survived him (L. and P. xi. 135). By her he left one son, Thomas, a minor, of whom Cromwell was made guardian by royal grant (ib. 943 [5]). That Robert Wrothe, as a friend of Cromwell, was a partisan of the Reformation is confirmed by the fact that his son, afterwards Sir Thomas Wrothe, was, says Fuller, 'of the Bedchamber and a favourite to King Edward the Sixth, who (as I am informed) at his death passed out of the armes of him, his faithfull servant, into the embraces of Christ. . . . Soon after, Sir Thomas found a great change in the English Court,

Item Magistro Pollard <sup>35</sup>	.	.	.	.	.	.	iijs. iiijd.
Item Magistro Hynd	.	.	.	.	.	.	iijs. iiijd.
Item pro fact' papiro	.	.	.	.	.	.	vjs. viijd.
Item pro feodo attornati	.	.	.	.	.	.	iijs. iiijd.
Summa	.	.	.	.	.	.	xxvijs. viijd.

Termino Hilarii anno xxiiij<sup>cio</sup> <sup>36</sup>

Item pro continuacione de le imparlanc' <sup>37</sup>	.	.	.	.	.	.	iiijd.
Item pro consilio ad iungendum exitum in papiris	.	.	.	.	.	.	xxs.
Item pro papir' fact'	.	.	.	.	.	.	vjs. viijd.
Item pro Copia eiusdem papir'	.	.	.	.	.	.	iijs. iiijd.
Item pro intracione placiti cum Magistro Ienour	.	.	.	.	.	.	xs.
Item pro feodo attornati	.	.	.	.	.	.	iijs. iiijd.
Item pro venire facias	.	.	.	.	.	.	iijs. iiijd.
Item pro retorno inde	.	.	.	.	.	.	ijs.
Summa	.	.	.	.	.	.	xlvijs.

Le costes in le Chauncery and sterre Chaumber post breue Iniuncione' deliberatum prefato <sup>d</sup>

Termino Pasche anno xxiiij<sup>to</sup> <sup>38</sup>

In primis pro feodo attornati	.	.	.	.	.	.	xxd.
Item pro Copia bille	.	.	.	.	.	.	vjs. viijd.
Item Magistro Densell pro consilio suo	.	.	.	.	.	.	iijs. iiijd.
Item Magistro Wrothe	.	.	.	.	.	.	iijs. iiijd.
Item Magistro Hynd	.	.	.	.	.	.	iijs. iiijd.
Item Magistro Pollard	.	.	.	.	.	.	iijs. iiijd.
Item Clerico Magistri Densell pro scriptura re-	.	.	.	.	.	.	
sponsionis	.	.	.	.	.	.	iijs. iiijd.
Item pro misis et Custagiis predictis pro hoc termino	.	.	.	.	.	.	xxs.
Summa	.	.	.	.	.	.	xlijs. viijd.

<sup>d</sup> The sentence ends thus.

but no alteration as many did (to their shame) in his own conscience, in preservation of which he was fain to fly beyond the seas' (T. Fuller, 'Worthies of England,' ed. 1840, 'Middlesex,' ii. 329). The manor of Durants or Duranee remained in the Wrothe family till the eighteenth century (Robinson, 'Enfield,' ii. 91). An engraving of the old manor house is to be seen in Hodson and Ford's 'History of Enfield' (1873), p. 92.

<sup>35</sup> Probably John Pollard, second son of Walter Pollard of Plymouth by Aviee, daughter of Richard Pollard of Way, Devonshire. Autumn Reader of the Middle Temple in 1535; serjeant-at-law in 1547; Speaker of the House of Commons 1553-55; described as 'excellent in the laws of this realm.' Died August 1557 ('Dict. Nat. Biog.'). <sup>36</sup> See note 12 supra.

<sup>37</sup> Qu. extension of time for pleading.

<sup>38</sup> Easter Day, anno 23 (1532), was on

Termino Trinitatis anno xxiiij<sup>to</sup>

Item pro Consilio in le ster Chamber, videlicet,

Magistro Hynd . . . . .	. iijs. iiijd.
Item Magistro Chydley . . . . .	. iijs. iiijd.
Item factura papiris replicacionis . . . . .	. vs.
Item scriptura eiusdem . . . . .	. iijs. iiijd.
Item pro feodo attornati . . . . .	. xxd.
Item pro Misis et Custagiis per totum hoc termino . . . . .	. xxs.
Summa . . . . .	. xxxvjs. viijd.

Termino Michaelis anno xxiiij<sup>to</sup> <sup>39</sup>

Item pro Consilio hoc termino . . . . .	. xs.
Item pro examinacione x <sup>cem</sup> testimoniorum . . . . .	. xxs.
Item pro Copia examinacionis . . . . .	. vs.
Item pro feodo attornati . . . . .	. xxd.
Item pro misis et Custagiis per totum hoc termino . . . . .	. xxs.
Summa . . . . .	. iiijli. xxd.

Termino Hillarii anno xxiiij<sup>to</sup> <sup>40</sup>

Item pro consilio supradicto termino Hillarii . . . . .	. xs.
Item pro feodo attornati . . . . .	. xxd.
Item pro misis et Custagiis hoc termino . . . . .	. xxs.
Summa . . . . .	. xxxjs. viijd.

Termino Pasche anno xxv<sup>to</sup> <sup>41</sup>

Item pro consilio supradicto termino . . . . .	. xs.
Item pro feodo attornati . . . . .	. xxd.
Item pro misis et Custagiis . . . . .	. xxs.
Summa . . . . .	. xxxjs. viijd.

Termino Trinitatis anno xxv<sup>to</sup> <sup>42</sup>

Item pro consilio . . . . .	. xs.
Item pro feodo attornati . . . . .	. xxd.
Item pro Misis et Custagiis . . . . .	. xxs.
Summa . . . . .	. xxxjs. viijd.

March 31. Easter Term began seventeen days later, viz. April 17 and ended May 13 (J. J. Bond, 'Handy-book of Dates,' p. 178). But the regnal year 24 began on April 22, so that most of Easter Term anno 24 was in 1532. That this is the year is evident from the next account, which is for Trinity Term anno 24, i.e. 1532.

<sup>39</sup> 1532. See n. 25 supra.

<sup>40</sup> 1533. See n. 26 supra.

<sup>41</sup> The regnal year 25 began on April 22, 1533, but Easter Term began on April 30, 1533, Easter Day being April 13. See n. 38 supra.

<sup>42</sup> June 18 to July 9, 1533.



Termino Michaelis anno xxv<sup>to</sup> 43

Item pro consilio supradicto	.	.	.	.	.	xs.
Item pro feodo attornati	.	.	.	.	.	xxd.
Item factura de la decre	.	.	.	.	.	xiijs. iiijd.
Item pro Copia inde	.	.	.	.	.	vs.
Item pro Misis et Custagiis hoc termino	.	.	.	.	.	xxxs.
Summa	.	.	.	.	.	iiijli.
Summa totalis	.	.	.	.	.	xxli. xijs. ijd.

BUTCHERS OF LONDON v. GRAZIERS.<sup>1</sup>

1533 Memorandum <sup>2</sup> that all suche grasiers grovers <sup>3</sup> & feders of cattell as apperyd this daye before the kinges counsell in the Sterr Chamber at Westminster vpon the playnt of the bouchers in london were this said daye inyoyned <sup>4</sup> on the kinges behalf, that they & euery of theym shall from hensforth bie no maner of fatt cattell to thentent to put the same ageyne to sale by the poll in grose to the bouchiers. And also that they shall conforme the prices of such cattell as they shall sell hereafter to the bouchers, so that the bouchers and other biers therof intending to retayle the same by weight according to the acte of parliament made concernyng the same, may vtter and sell the said cattell to the kinge's subiectes according to the tenour & effect of the same acte. And in case any of the said persones being grasiers feders or buyars up of Fatt cattell do hereafter refuse to sell their cattell at such prices as ys ment by the said Acte, That then the boucher fyndyng hym self grevyd shall signefie vnto the kinges counsell the name or names of any such person or persones that so vsith, and the prices also of the cattell refusyd by theym. And it is further inioynned vnto the said persones, that they & euery of theym shall hereafter endeavour theym selves to help to furnysshe the markettes with cattell so that the kinges subiectes may be provided therof.

<sup>43</sup> October 9 to November 28, 1533.

<sup>1</sup> S.C.P. Hen. 8, vol. vii. f. 172. See Introd. p. xxxviii.

<sup>2</sup> On the dorse of this document, which is evidently a draught, is written in contem-

porary hand 'Notes of orders & decrees in. miēh. terme a° xxv<sup>to</sup>. xxix° novembris.'

<sup>3</sup> Growers.

<sup>4</sup> Enjoined.

BAKERS, BREWERS & OTHERS OF ANDOVER *v.* KNYGHT.<sup>1</sup>

A. To the kyng our soueraigne lorde.

1534 Petyously complaynyng sewyth vnto youre moste gracouz highnez the more parte of youre poure Subiectes and tenauntes<sup>2</sup> of youre Towne of Andeuer in your Countie of Suthampton. And the Bakers and bruers<sup>\*3</sup> many others of youre seide Towne That where as one John Knyght dwellyng in the personage of Andeuer<sup>4</sup> havynge the seid personage to farme having also the Ferme of Kyngisenam<sup>5</sup> in the seid [parisshe of]<sup>3</sup> Andeuer And havynge a Ferme called Crykelade Ferme And a mille called Crykelade Mille within the seid parisshe of Andeuer of the wiche personage too Fermes and mille euery one [now is]<sup>3</sup> and hath byn alweys a honeste manys lyvyng and good housholdes hath byn alwey kept appon euery of them and nowe they be only in the handes and occupacion of the seid knyght<sup>\*3\*</sup> seid John knyght havynge by reson of the seid personage too Fermez and mille<sup>6</sup> yerely by estimacion a m<sup>1</sup> quarters of Greyne and Corne and he therwith not satyat nor con[tent hath]<sup>3</sup> bought and dayly dothe bye great quantitez of Corne And engrosse the same to his owne synguler profitt and auauntage And the seid John Knyght havynge the seid great sumez of<sup>\*3</sup> by reason of his Fermez as by his byeng and vnlauffull engrosseng seyns the first day that he came to Andeuer to dwell<sup>7</sup> vnto this day neuer sold one busshell of Corne in the [markett]<sup>3</sup> of Andeuer but dothe cary the Corne to other marketts further of Where the Corne is of gretter and hier price to the gret vndoyng of the Inhabitaunce and dwellers in and<sup>\*3\*</sup> Towne. And also the seid John Knyght hath loders<sup>8</sup> to his mille wiche rydith into the contry nye vnto Andeuer And there doo bye the Corne at Fermours houssez and other mennys houssez Whiche<sup>\*3\*</sup> brought to the markett and solde in the markett<sup>9</sup> And his Wif and loder to his mille hath dyuers tyme bought whete in the market of Andeuer and gave iiij<sup>d</sup> or

<sup>1</sup> S.C.P. Hen. 8, Bundle xxiii. No. 296. Introd. p. xxix.

<sup>2</sup> Andover, or Andever, was 'Aneient Demesno,' or 'Terra Regis Edwardi' in Domesday. 'Andovere tenet Rex in dominio. Rex Edwardus tenuit' ('Hampshire extracted from Domesday Book' by Richard Warner [1789], p. 28). On the incidents of Aneient Demesne see Introd. pp. lxxx-lxxxv, also p. 329, n. 9, and 'Select Cases in the Star Chamber' (Selden Society, 1902), p. 73, note 2. <sup>3</sup> MS. torn.

<sup>4</sup> Andover was one of the eases mentioned below (p. 218, n. 12) where the advowson had been appropriated by the neighbouring Priory, which had let the parsonage. See Dugd. 'Monast.' vi. 992.

<sup>5</sup> Now King's Enham.

<sup>6</sup> Contrary to the Statute of 1515 against ingrossing farms (7 Hen. 8, c. 1). See I. S. Leadam, 'Domesday of Inclosures' (1897), i. 8.

<sup>7</sup> The name in the form 'le knyght' is to be found among the Records of Andover as early as 1329 (C. Gross, 'Gild Merchant' [1890], ii. 325).

<sup>8</sup> Carriers. Cf. W. H. Turner, 'Select. Ree. Oxford,' 325 (1568). 'Nether any looder carye or rearye with their loode horse or horses any maner of eorne' (J. A. H. Murray, 'Engl. Diet.' s.v. loader).

<sup>9</sup> This was the offence of forestalling. See Introd. p. xxix.

v<sup>d</sup> in euery busshell a[bove the]<sup>3</sup> price in the markett so that the markett of Andeuer was by the occasion therof greatly rered<sup>10</sup> and amonted<sup>11</sup> to the great vndoyng of the poure Communalte and youre poure subiects th[er]<sup>3</sup> youre seid Comyns and subiects beyng ther sore impouerissed and greved complayned of the great engrossyng of the seid John Knyght his seruaunts and adherentes vnto Rauff Gun[tter] gentilman then Baile of Andeuer and to xxiiij of the Corporacion of the seid Towne. Appon whose complaynt the seid Bailye with his brethren commandid the seid John Knyght [that]<sup>3</sup> he should not from hensforth vnlauffully engrosse Corne aftyr suche manner as he before had done to the vndoyng of youre seid subiects but he nothyng regardyng the<sup>\*3</sup> commandement did continually vse his byeng and engrossyng as he had done before Wherappon the seid Baile and xxiiij of the Corporacion of the seid Towne compleyned to the Justices of the pece in your seid Countie And the seid knyght thynkyng and perceyvyng that he myght not bye Corne beyng a Fermer of thre Fermys<sup>12</sup> lawfully he wylllyng not to cesse nor to leve<sup>\*3</sup> engrossyng yet of his ferther covitouz and corrupt mynd did take apou hym the Craftes of Bakyng and bruyng<sup>13</sup> where in he was neuer brought vp nor neuer prentice to eny of the seid Craftes<sup>14</sup> but only he did it to thentent to continue his vnlauffull byeng and engrossyng of Corne by the Color of bakyng and bruyng And so by that color where he baked one quarter he bought x quarters the wiche should haue come to the markett to be solde at resonable prisez if the seid Knyght had not engrossed the same wiche was and yet is to the great hynderaunce of the seid markett and to the great damage of youre poure subiects inhabittyng in the same towne And to the vttur vndoyng of the Bakers of the seid Towne more ouer graciously soueraigne lorde when and aftir the seid John Knyght toke vpon hym the Craft of a Baker the Baile of the seid towne of Andeuer send the seriaunts of the seid towne to the seid Knyght commandyng them to bryng the bredde of the seid John knyght to be weyed at their Gildhall accordyng to a laudable custome before there vsed.

<sup>10</sup> Raised; cf. Drayton, 'Legends' (1596), iv. 933. 'The Corne . . . being once downe, it selfe can never reare' (Murray, 'Engl. Diet.' s.v. Rear).

<sup>11</sup> Heightened, raised, from the verb to 'amount' in a causal sense; cf. Broughton's 'Lett.' vii. 21 (1599). '[They] amounted him to bee the chiefe professor in diuinitie' (ib.).

<sup>12</sup> The fact that he was a farmer of three farms is here repeated *ad invidiam*, there being no statute at this time specially

interfering with the purchase of corn by farmers See p. 175, n. 32.

<sup>13</sup> This was an offence against 37 Ed. 3, c. 6 (1363), 'Ensement est ordeigne que artificeers gentz de meistere se teignent cheseun a un meister.'

<sup>14</sup> At this period apprenticeship was an essential part of the Gild system. The term of apprenticeship was usually seven years. See W. J. Ashley, 'Economic History' (1893), ii. 86.



And when it was brought to their seid hall it did weye aboue the Wight that it shuld at that tyme weye Wherappon the Baille suffered hym to bake And aftyr that the seid John knyght baked eftesonez<sup>15</sup> And the Baille within x days aftyr sent for his bredde and other Bakers bredde of the seid Towne to be weyed And the Baillye in the presens of the seid John knyght and in the presens of xx<sup>ti</sup> personz moo Weyed ageyn his bredde wiche was to leight in the l<sup>d</sup> Whete loffe iiij ounces<sup>16</sup> And in horsebredde<sup>17</sup> it was to light in an obolus<sup>18</sup> the Wight of iiij ounces the wiche the Bailly with diuers of his brethren brought to Wynchestar at the Assisis holden before my lorde Chief Justice and Sir William Shelley knyght at the Feast of mary magdelyn last past<sup>19</sup> and put vpp to them a bill of compleynt agenst the seid John Knyght with due provez of the same with many other mysorders and Riottous<sup>20</sup> fassions done and comensed by the seid Knyght his Wif and seruaunts Wherappon my seid lorde Chieff Justice and Sir William Shelley knyght youre Justicez of Assisis<sup>21</sup> and Justicez of pece of youre seid Shire<sup>22</sup> commandid that the seid John Knyght shuld not bake nor brue nor by no Grayne by the color of bakyng or bruyng vnto suche tyme as he where<sup>23</sup> therunto auctorisyd and enabled by the seide<sup>24</sup>

<sup>15</sup> Again.

<sup>16</sup> In Arnold's 'Chronicle' (p. 49), an account of the Customs of London belonging to the early years of the sixteenth century, is a table showing the Assize of Bread as it varied with the price of wheat. From this it appears that in London, when the quarter of wheat was at 7s. 6d., the penny wheat loaf was fixed at 58½ oz. and ¼d. in weight. In 1533, to which year these events refer, the average price of wheat was 7s. 8d. (Rogers, 'Hist. Ag. and Prices,' iv. 288). As the weight of the loaf fell with the rise of the price of the quarter—in 1532, wheat being at 8s., it had been 56½ oz. and ¼d.—the assize weight of the loaf, assuming the assize at Andover to correspond to that of London, may be roughly taken at 57 oz. The ¼d. = 5 to 6 grains. See Murray, 'Eng. Dict.' s.v. pennyweight.

<sup>17</sup> Made of beans; H. T. Riley in 'Glossary to Liber Albus,' *sub* 'Payn pur chevauz' (W. Cunningham, 'English Industry,' &c. 4th ed. [1905], p. 569). The making of horse-bread was a business of sufficient profit to induce Parliament in 1390 to pass an Act prohibiting any but bakers, and especially innkeepers, to make it (13 Rich. 2, st. 1, c. 8). The statute also ordered that the price should be reasonable and should, as in the case of bread, vary with 'le pris des bledz que soit en marche.'

<sup>18</sup> A halfpenny. The Latin form seems at this time to have been more used than the English 'obole,' Latin being the language of account.

<sup>19</sup> July 22, 1533. Cf. B, p. 212, n. 19 *infra*.

<sup>20</sup> This is a count added to bring the case within the statutory jurisdiction of the Star Chamber. See 'Select Cases in the Star Chamber' (Selden Soc. 1902), pp. lii-lv.

<sup>21</sup> 'Justices of Assise may enquire of defaults &c., of punishment of victuallers &c. which sell at unreasonable price.' E. Coke, 4 Inst. 159. Their jurisdiction may be said, in short, to have comprehended common law offences of this kind generally, summarised by Coke in '&c.'

<sup>22</sup> 'The ordinary commission of the peace was invariably issued to the Justices of Assize from the reign of Edward 3, conferring on them powers similar to those of the local Justices of Peace in every county in which they might sit' (W. S. McKechnie, 'Magna Carta' [1905], p. 331). <sup>23</sup> Sic.

<sup>24</sup> Not before mentioned in this bill. This was William Sandys, Lord Sandys, of 'The Vyne,' near Basingstoke, Hants. He was nominated Lord Chamberlain in 1526 (L. and P. Hen. 8, iv. 1996, 2740). He was on the commission of the peace for Hampshire, March 15, 1531 (*ib.* v. 166). See 'Dict. Nat. Biog.'

lorde Chambleyn and sir William Paulet youre Comptroller<sup>25</sup> and if he wold not so doo they enjoyned hym<sup>26</sup> appon the payne of fourtie pounds that he shuld appere in the Sterre Chambre<sup>27</sup> before youre highnesse and the lordes of youre moste honourable Counsell in Quindena Michaelis<sup>28</sup> next folowyng to aunswere there to the premisses Whiche commandement of your seid Justicez the same Knyght nothyng regardyng immediatly baked and brued and also continually hetherto hath engrossed Corne as he did before. Wherappon the seid Guntter one of the Bailles of youre seid Towne and his brethren complayned vnto the seid sir William Sands being lorde Chamberleyn and hye Steward of the seid Towne for reformation of the premisses wiche bill of Complaynt he hath sent vnto your honorable Counsell vnder the Towne seale the wiche they will affirme And the seid lorde chamberleyn gaue like commandement vnto the seid Knyght as the seid Justicez before had gevyn that is to sey that he shuld not bake ne brue nor bye eny Corne and engrosse the same to the vttur vndoing of youre seid subiects wiche commandement he nothyng regardithe Where appon he was at the lawe day holden the Monday aftyr the Feast of Epiphanye of oure lorde god last past in youre seid Towne not only presented for a Comyn regratour and engrossour of Corne but payned<sup>29</sup> that he shuld not bake nor brue ne from thensforth regrate or engrosse any Corne comyng to the seid market Wiche not withstandyng he continually vsith to the vttur vndoing of youre seide Towne onlez your graciouz helpe be to them marcyfully showed in this behalf. In consideracion wherof it may please your highnez of your habundaunt grace the premisses considered<sup>30</sup> command that

<sup>25</sup> Of Basing, Hants; knight of the shire for the county 1529-36; comptroller of the Royal Household, May 1532; first marquis of Winchester; died 1572 ('Dict. Nat. Biog.'). He was also on the commission of the peace for Hants, March 15, 1531 (L. and P. v. 166).

<sup>26</sup> The intervention of the Lord Chamberlain and the Comptroller was, in the first instance, presumably in virtue of their office as justices of the peace for the county. By an Act of 1351 (25 Ed. 3, st. 2, c. 5) power was given to the justices of the peace to inquire, among others, of those that sold victual by retail. An Act of 1361 (34 Ed. 3, c. 5) assigned to them authority to inquire into weights and measures. But it does not appear that justices of the peace had power, at any rate in such a case as this, to bind persons over to appear before the Star Chamber. The procedure prescribed by the Act 'Pro Camera Stellata' (3 Hen. 7,

c. 1) was by bill or information to the Chancellor. This gave the Court seisin of the case, and it thereupon issued its 'writ of Privy Seal' for the appearance of the defendant.

<sup>27</sup> It was as Privy Councillors that these two officials bound Knight over to appear before the Star Chamber. (See W. Hudson, 'Of the Court of Star Chamber' in 'Collect. Jurid.' ii. 143.) In doing so they must have regarded the Star Chamber not as a Court of which the jurisdiction and procedure were strictly defined by statute, but as the Council itself. Cf. 'Select Cases in the Star Chamber' (Selden Soc. 1902), pp. li, lii.

<sup>28</sup> October 13. Fourteen days after the Feast, that is, fifteen days including the Feast (J. J. Bond, 'Handy-book of Dates' [4th ed. 1889], p. 162).

<sup>29</sup> Put under a penalty.

<sup>30</sup> 'To' omitted.

the seid John Knyght may be enyoyned apou a certeyn payne by youre grace to be lymytted that he departe not from this youre honourable Courte vntill suche tyme as some order or direccion in the premissez be had or done accordyng to right and conscience And youre poure subiects and tenaunts will dayly prey for the preseruacion of youre most reall estate longe to endure.

*No indorsement.*

KNYGHTE v. GUNTER AND OTHERS.<sup>1</sup>

B. To the kynge owre Soueraygne Lorde.

1534 In moste humble wise shewyth vnto your highnes yower trew and faythefull Subiect John Knyght<sup>2</sup> dwelling within the parisshe of Andeuer<sup>3</sup> in your countye of Suthampton,<sup>4</sup> that where your said compleynaunt hath bene a dweller within the seyde town and yate<sup>5</sup> ys and perceveyng of late suche greate Scarsytye of Bredde and drynke within the sayde towne and the cuntrye aboute hit that the great number of your powre subiectes and inhabitauntes of the same cowde lytell or none gete for theyre money orelse atleste were dryven of necescytye to paye for suche as they wold haue a greate deale more then hit was worthe to the greate hurte and hyndraunce of your sayde subiectes dwellinge in those partiez and for Releffe and helpe hereof yower sayd oratowre Intendyng more the comon welthe of the sayde towne and cuntrye aboute hit then his singuler lukar profytt and aduauntage in January in the xxiiij<sup>th</sup> yere of your moste noble Raygne<sup>6</sup> began to occupye the crafte of bakynge of bredde for horsse<sup>7</sup> and man and brewyng of bere and ale within his howse at Andovor foresayde and the same put to sale in the sayde towne from tyme to tyme for the Releffe of your Subiectes and people as pleassyd to bye the same bredde and drynke, whiche bakynge from tyme to tyme was not onely holsome for mannez bodye but also contaynyng mor in wayght then enye other bredd bakyn in the sayde towne beyng putt to sale, and also solde from tyme to tyme bere and ale<sup>8</sup> after one penny

<sup>1</sup> S.C.P. Hen. 8, Bundle xxiv. No. 97.

<sup>2</sup> Will proved 1538 (J. C. C. Smith, 'Index to Canterbury Wills,' 1895).

<sup>3</sup> Now Andover.

<sup>4</sup> Hampshire, properly Southamptonshire.

<sup>5</sup> Yet.

<sup>6</sup> 1533.

<sup>7</sup> Known as 'horsebread.' See Introd. p. xxx, *supra*.

<sup>8</sup> 'Ale was fermented wort, to which nothing was added which should flavour or preserve it. Beer, a word of later origin or use, was ale to which hops had been added. The use of hops in beer . . . commenees in the fifteenth and becomes general in the sixteenth century' (J. E. T. Rogers, 'History of Agriculture and Prices' [1882], iv. 546).



the gallon<sup>9</sup> wheras all the inhabitauntes of the sayde towne and all such other as dydd resorte to the same towne before that tyme for great nede were dryven to by at a higher price aswell bere as ale. Shewyth the ferther more yowre highnes that yowre compleynaunt hathe vseyd hymselfe in exercysyng the fete<sup>10</sup> of bakyng and brewyng frome the begynnyng of the sayd monethe of Januarye in the sayde xxiiij<sup>th</sup> yere quyetly and peassablye withoute lette<sup>11</sup> or dysturbaunce vntill marche then next folowyng by all whiche tyme by reasson of the great occupyng of your sayd subiect in bakyng and brewyng all the inhabitauntes of the sayde towne and cuntrey for there comferte hadde greate reapeare<sup>12</sup> to hym and were well releued and holpen and myght haue hadde at all tymes bredd and drynk for theyre money where they lackyd before so that dyuers persons whyche then vseyd bakyng and brewyng within the sayde towne and withoute and to sell the same at theyre pleassure cowde not then vtter ne sell so myche bredde bere ne ale as they were wonte to do onelez that they wold sell so reassonable a pennyworthe to your people as your sayd Subiect dydd, whervpon began to arysse a greate malyce and Rancor in the hartes of dyuerz persons within the sayd towne and specially of suche as vseyd the feat of bakyng and brewyng within the same and ther vpon one Raffe Gunter<sup>13</sup> gentleman bayliff<sup>14</sup> of the seyde towne whiche occupyethe and by a longe tyme hathe occiepyed berebrewyng within the same towne confederaunt with one Rychard walwen gentleman towne clerk of the sayd towne comaundyd one alexander muddell and wylliam haywoode serianes at the mace<sup>15</sup> within the sayde towne to take into theyre handez all suche bredde as eny of the sayde towne hadde bought of your Subiect wherevpon the sayd Alexander muddell

<sup>9</sup> This was cheap. 'An average of forty entries of ale by the barrel, principally London purchases, between 1405 and 1540 gives 3s. 4d. These are prices of the best quality in the year. There are . . . only a few entries of ale and beer by the gallon, when the rate ranges from 2d. to 1½d., and is generally 2d.' (ib. 549). By the statute 23 Hen. 8, c. 4, passed in 1532, a barrel of beer or ale was ordered to hold 36 gallons. At the price of 3s. 4d. per barrel, this works out at 1½d. a gallon. In 1522 the municipality of Gloucester passed an ordinance that 'bruers . . . shal not excede the price of 1d. a galon of ale or bere' (MSS. of Gloucester, Hist. MSS. Comm. xii. Rept. pt. ix. p. 442).

<sup>10</sup> 'Feat,' 'a department of action; a pursuit, employment, art or profession' (J. A. H. Murray, 'Eng. Diet.' s.v.).

<sup>11</sup> Hindrance.

<sup>12</sup> Repair.

<sup>13</sup> Second son of Henry Gunter of Andover, who was the son of — Gunter of Abergavenny ('Genealogist,' N.S. iii. 88 [1886]). His wife was named Joan (L. and P. vi. 1067 [1533]).

<sup>14</sup> 'Bailiffs of Franchises be those that be appointed by every lord within his liberty' (Cowel, s.v.). 'Each Hundred hath his baylife, who is made by the Lord if any hath that libertie, or else by the shirfe of the shire for the time being' (Sir Thomas Smith, 'De Republica Anglorum' [ed. 1906], ii. xvi. 82). It was the duty of grand jurors to make presentments to the judges on eireuit as to the discharge of their duties by the bailiffs of the Crown (see Bracton, lib. iii. ii. 1, De Corona). As the town was Ancient Demesne, the defendant was the king's bailiff.

<sup>15</sup> See p. 115, n. 45.

and Wylliam haywode toke from one John norton and other of yowr subiectes serten bredde to the valew of xvij<sup>d</sup> of the bakyng of your sayd subiect whiche they hadde bought of your Oratour whiche bredde the sayd bayly and wallwen convertyd to theyre owne vssez and also gaue commandement to all the inhabitauntes of the sayd towne that yf anye of theyme frome thensforthe bought anye of the bredde made by your sayd subiect or anye of his bere or ale that they so doyng schulde be sett faste in the stockes in the sayde towne for his so doyng for feare wherof manye and dyuerz of the inhabitauntes of the sayde towne durste not by a longe space then next ensewyng to bye enye bredde bere or ale of your sayd subiect to his great hurte and loste onelez that hit were by nyght, and to the intent further to Enquyett vex trowble and vndoo your sayd powre subiect the sayd Gunter Wallwen Wylliam dawnsey of the saide towne baker Innocent Weynford of the said towne baker Robert Cuffeley of the said towne brewer Jamez heyfor of the same towne brewer Robert kygell & thomas Carpenter constables <sup>16</sup> of the sayde towne, peter Inwode of the sayde towne milner John peterson draper Thomas Ryve of the sayde towne draper John Sone milner of Clatford myll in the sayd countye and John Danyell mylner of Ruckerborow myll in the paryshe of Andeuer foresayde beyng confeteryd to gither at too seuerall assisez holden at Wynchester in the sayde countye before sir John ffitziamex <sup>17</sup> knyght and William Shelley <sup>18</sup> your Justicez of the assisez in your sayd countye <sup>19</sup> Exhibytyd too seuerall bylles of Regratyng <sup>20</sup> to the sayd Justicez ayene your sayd Subiect the one byll contaynyng a quarter and three bwysshelles of whete and the other vj bwishelles whiche bylles beyng vntrew cowde not be founde nothwithstandyng the great beryng and mayntenaunce <sup>21</sup> hadde ayenst hym theryn and then your sayd subiect trustyng there shuld rysse ne grow vnto hym no ferther besynez ne trowble for his bakyng and brewyng exercysed & occupied the same in lyke manner and forme as he before dydde whervpon the sayd Gunter & the sayd Walwey gave strete <sup>22</sup> commandement to your sayde subiect that he schulde no ferder bake ne brew vpon payne to lose for euery tyme for his so doyng xl s. and ferther com-

<sup>16</sup> See p. 123, n. 5.

<sup>17</sup> Sir John Fitzjames, of the Middle Temple, Attorney-General 1521, Chief Baron of the Exchequer 1522, Chief Justice of the King's Bench 1526 ('Dict. Nat. Biog.').

<sup>18</sup> Sir William Shelley, of the Inner Temple, Recorder of London 1520, Justice of the Common Pleas 1527 (ib.).

<sup>19</sup> The Chief Justice, Sir John Fitz-

james, and Sir William Shelley went the Western Circuit together in the summer of 1533 (L. and P. vi. 1544). I have not been able to ascertain the date of the other assize mentioned, but it would appear to have been in the winter of 1533-34 from what follows.

<sup>20</sup> See Intro. p. xxxi.

<sup>21</sup> See p. 44, n. 41.

<sup>22</sup> Qu. strait, i.e. strict.

mandyd the pore people of the sayd towne that they ne<sup>23</sup> none of theyme schuld from thensforthe bye anye bredde bere or ale of your sayd subiect vpon payne of forfeiture to euery of theyme in the so doynge for euery tyme xxs. and ferder then sayde that yf your sayd subiect and people of the sayd towne wolde not obbey the sayde commandement that the sayd bayly & the sayd Walwell wolde dryve your sayd subiect and the sayd powre inhabytauntes owte of the sayd towne, for not obbeyng of whiche commandement yowre sayd subiect was not onely amercyde to the summe of xls. but also dyuerz of the sayde powre inhabytauntes was in lyke wise amersyd for Reformaunce wherof your sayd powre inhabytauntes on Shere thursdaye<sup>24</sup> last paste compleynyde to the sayde Sir John ffitziametz knyght who by his discrete goodnes and wisdom pacyfied<sup>25</sup> the sayd amercementes for that tyme so that no ferther vexacion trowble ne busyneze hathe insewyde to your sayd subiect ne to the sayde powre inhabytauntes for the same. Also manye & dyuerz tymes sithen the sayde Shere thursdaye your oratour hathe sustaynyde myche trowble and busyneze for his sayd bakynge and brewynge to his great hurte and hyndraunce by reasson wherof your powre subiect was dryven to demyse and graunte his sayde bakehowse and brewhowse to one Wylliam Woodward of the sayd towne to hym and his assygnez frome the feast of Sent Mary magdalen in the xxvj<sup>th</sup> yere<sup>26</sup> of yor moste noble Raygne vntill the feast of the natyvytye of owre lorde god next comynge<sup>27</sup> whiche brewhowse and bakehowse the sayd Wylliam Woodward occupyeth by vertue of the sayde demyse and that notwithstandinge the sayd bayly and woollwen with other of theyre adherens hathe eftsons<sup>28</sup> sythen<sup>29</sup> the sayd graunt and demyse made to the sayd Woodward as ys yefforesayde cawsyd yowr sayd oratoure to be amersyd for ons bakynge and brewynge to the summe of xls. and haue cawsyd the same to be afferryd<sup>30</sup> in the courte affore-

<sup>23</sup> Nor.

<sup>24</sup> Shere or Shrive Thursday, also called Maundy Thursday, the Thursday before Good Friday.

<sup>25</sup> Apparently in the sense of 'made peace in the matter of.' This use of the word is not noticed in Murray, 'Engl. Dict.'

<sup>26</sup> July 22, 1534.

<sup>27</sup> December 25. Qu. 1534.

<sup>28</sup> Again.

<sup>29</sup> Since.

<sup>30</sup> Assessed. 'In the Customary of Normandie, cap. 20, this word "affeurer" the Latin interpreter expresseth by "taxare"' (Cowel, 'Interpr.' s.v. Affeerers). By Magna Carta, cap. 20, 'Liber homo non amercietur pro parvo delicto, nisi secundum modum delicti . . . et nulla predictarum

miseri cordiarum ponatur, nisi per sacramentum proborum hominum de visneto.' The amercement of 40s. must have taken place at the Court Leet. The amercement was the act of the Court. 'The Great Charter also directs that the amercement, which is always inflicted in general terms ("sit in misericordia"), shall be set ("ponatur"), or reduced to a certainty, by the oath of a jury. This method of liquidating the amercement to a precise sum is usually done in the court-leet and court-baron by affeerors, or jurors sworn to affeere, that is, tax and moderate the general amercement according to the particular circumstance of the offence and the offender. In imitation of which, in courts superior



sayd<sup>31</sup> at xs. whiche vexacion and trowble afforesayd was and ys to his vndoing Shewyth ferthermore your highnez that the sayd Raffe Gunter Alexander Muddell and William haywodd foresayde and others to your sayd Subiect vnknowyng<sup>32</sup> by the procurement and commandement of the sayd Richard Walwen William dawncey Innocent Weyneford Robert Cuffeley James heyfor Robert Kygell thomas Karpenter John peterson Thomas Ryve peter Inwode John Sone John danyell and one Richard Rawlyns the seconde daye of August last paste too horsez of your sayd subiect then beyng in a serten pasture of your sayd subiect in Andeuer foresayd owte of the libertye of the sayde towne eueryche<sup>33</sup> of theyme haveyng a fetter loked vpon theyre fete forsably and Riotously there toke and drove awaye and theyme impoundyd in the pounce at Andever foresayd which your sayde subiect can not haue to hym delyuered notwithstondyng that he to his greate coste chargez and Expencez hathe sewyd owte of your courte of Chancerye<sup>34</sup> your wrytez of Replegiare alios and plures dyrectyd to the Shriffe of the sayde countye whiche catall hath ben there and in there Custodye Impoundyd by the tyme and space of ten wykes at the leste and yeate arr impoundyd to theyre distruction for euer more, and they yeate not beyng contentyd with this theyre Ill doyng but also the sayd Raffe of his creweltie and malyce hathe amersyd dyuerz of the pore people of the sayde towne whiche bought bredde bere or ale of your sayd subiect or of the sayd William Woodeward some xij *d.* some more some lasse and for the same hath takyn distresses and suche as bythe<sup>35</sup> so powre that hathe no thyng wherby they maye be distrayned the sayde bayly threteneth theyme to sett

to these, the antient practice was to enquire by a jury, when a fine was imposed upon any man, "quantum inde regi dare valeat per annum, salva sustentatione sua, et uxoris, et liberorum suorum" (W. Blackstone, 'Commentaries' [ed. 1769], iv. 373).

<sup>31</sup> This means the court-leet, which is implied, though not expressed, and not the Court of the Justices of Assize. It is to be observed that the plaintiff does not state that he appealed to the King's Court against the sentence. On the contrary, the amercement and affeerment are represented as having been the work of the defendants, as appears to have been the case (see C, p. 218 *infra*).

<sup>32</sup> Unknown.

<sup>33</sup> Each.

<sup>34</sup> 'The Court of Chancery is the *officina iustitiae*, the shop or mint of justice wherein all the king's writs are framed' (W. Blackstone, 'Comm.' [ed. 1769], iii. 273). The question arises, however, why the plaintiff

adopted this course when he had one more speedy and effective. 'Formerly, when the party distreined upon intended to dispute the right of the distress, he had no other process by the old common law than by a writ of replevin, *replegiari facias*, which issued out of Chancery, commanding the sheriff to deliver the distress to the owner, and afterwards to do justice in respect of the matter in dispute in his own county-court. But this being a tedious method of proceeding, the beasts or other goods were long detained from the owner, to his great loss and damage. For which reason the statute of Marlbridge (1267) directs that (without suing a writ out of Chancery) the sheriff, immediately upon complaint to him made, shall proceed to replevy the goods' (ib. 147).

<sup>35</sup> The Old English Northumbrian form *bīað* (E. Sievers, 'Old English Grammar' [transl. by A. S. Cook, Boston, U.S., 1887], 2nd ed. p. 239).

theyme in stockes within the sayd towne at his pleasure and so the sayd malefactors vse theym sellfes as persons oppressynge your people litell regardyng your lawez nor ferynge ne dredynge the same to the most perelse<sup>36</sup> Example of lyke offenders in tyme commynge yf dew correccion be not hadde with spide<sup>37</sup> therin hit maye therfore please your highnes the premyssez consyderyd to graunt seuerall writtes of Subpena to be dyrectyd to the sayd Raffe Gunter Richard Wallwen alexander muddell William haywoode and thother persons afore rehersyd commandyng theyme by vertue therof personally to apere before your highnes and your most honorable counsell in your sterre chamber at Westminster at a serten daye to answeere to the premyssez and there to abyde suche order dyreccon & Judgement as schalbe thoughte by your highnez and your sayde counsell moste expedyent and necessarye in this behalfe and yowre sayde Oratoure schall dayely praye for the preseruacion of yowre moste Royall Estate longe to endure.

(Indorsed in modern hand)

Knyght v. Gunter & alios.

- C. The aunswer of Rychard Wallweyne Alexander Modell and other defendaunts mencioned in the seid byll of compleynt.

The seid Rychard Wallweyne Alexander Modell and other the seid defendaunts seyen that the seid byll of compleyntte is vncerten vntrue & craftelye fayened & imaged onelie to put the seid defendaunts to wrongfull vexacyon And the mater theryn conteyned determinable at the comen lawe<sup>1</sup> and not yn this honorable Courte Wherof they prayen allowance And yf they be compelled by the order of this Courte to make farder aunswer then the seid defendaunts seyen that the seyde Towne of Andeuer is an aunceyent Towne and incorporated by aunceyent grauntes and confyrmacyons made by dyuers & sondrye of the kyngs oure Souereyn lorde progeniters by the name of probis hominibus ville de Andeuer<sup>2</sup> and

<sup>36</sup> Perilous.

<sup>37</sup> Speed. Note the French pronunciation of the 'i.'

<sup>1</sup> On the invasion by the Star Chamber of the sphere of the Common Law, see 'Select Cases in the Star Chamber' (Selden Society, 1902), pp. lxxv, lxxvii.

<sup>2</sup> 'The king's creation [of a corporation] may be performed by the words "*creamus, erigimus, fundamus, incorporamus*," or the like. Nay, it is held that if the king grants

to a set of men to have *gildam mercatoriam*, a mercantile meeting or assembly, this is alone sufficient to incorporate and establish them for ever' (W. Blackstone, 'Comm.' [ed. 1768], i. 473). King John's grant of the Merchant Gild to Andover was confirmed by many of his successors ('Municip. Corp. Comm.' [1835], p. 1081; C. Gross, 'The Gild Merchant' [Oxford, 1890], ii. 289). The records of the Gild date back to 1279 (Gross, *ib.*).

the Inhabytauntes of the seid Towne by the same grauntes & confirmacions tyme out of remembraunce of man haue holden of our nowe souereyn lorde & his progenytoures the seid Towne en Fee ferme<sup>2</sup> as by the seyde auneyent grauntes and confirmacions more at large maye & dothe appere and by all the seid tyme the Inhabytauntes of the seyde Towne haue vsed from tyme to tyme as nede requyred to chose xxiiij<sup>ti</sup><sup>3</sup> of the moste substancyall & discrete Inhabitantes & other hed offycers<sup>4</sup> withyn the seyde Towne yerlye to rule & order the Inhabytauntes of the same accordyng to the lawes and lawdable customes by all the seid tyme vsed & excercysed yn the same as well for the good mayntenaunce of the paymentes of the seid fee Ferme<sup>5</sup> as for the contynuaunce of the good order and rule of the seid Towne amonges whiche lawes and lawdable customes the seid xxiiij<sup>ti</sup> & other the seid hede offycers by all the seid tyme hathe vsed as oughters<sup>6</sup> as nede requyred to electe chose and appoynte certen of the honest men dwellyng yn the seid Towne and well exercysed yn the craftes of bakyng & bruyng to vse and exercise the same craftes not onlye trulye to serue the Inhabytauntes of the seid Towne of good & holsome brede of all sortes accordyng to the assyse<sup>7</sup> for there money but also yn leke maner to serue all other persons that at eny tyme dyd or shulde resorte and repayre vnto the seid towne to bye eny brede or drynk accordyng to thassyse for the tyme beyng and Ferdermore the seid xxiiij<sup>ti</sup> haue vsed by all the seid tyme to cause the seyde bakers and brueres to fynde suffycyent suyrtyes Yf nede be to serue the seid Inhabytantes and suche other of the kynges people as dyd resorte and repaire vnto the seyde Towne for eny brede or drynk and by auneyentt custume vsed yn the seid Towne noyn other of the Inhabytauntes withyn the seid Towne sholde at eny tyme bake or brue eny maner of brede ale or bere except he or they were thervnto named & appoynted by the seid xxiiij<sup>ti</sup> & other the seid hed offycers and yf eny of the Inhabitantes wythyn the seyde Towne dyd contrarye to eny of the lawdable customes and vsages of the seid Towne there vsed for the good order and meyntenaunce of the same the same person or persones so offendyng yf his or there offence were presented at eny of the lawdayes<sup>8</sup> or courtes kept yn the seid Towne

<sup>2</sup> 'The Governing Council was called the xxiiij<sup>or</sup>, the xxiiij probi homines, or the xxiiij de corporacione' (Gross, 'The Gild Merchant,' ii. 346).

<sup>4</sup> 'The meetings [of the Merchant Gild of Andover] were generally held once a year—after 1 Henry VI., usually on Sunday before Michaelmas. . . . The business ordinarily transacted was the election of two

bailiffs by the "senescalli" from four candidates named by the "twenty-four forwardmen" (ib. 343, 344). There were two 'senescalli,' presumably the two 'Vytaleres' referred to in the text. <sup>5</sup> See p. 68, n. 3.

<sup>6</sup> Often.

<sup>7</sup> See *Introd.* p. xxx.

<sup>8</sup> 'Otherwise called View of Frank Pledge or Court Leet' (J. Cowel, 'Interpr.' s.v.).



by the verdyte of xij men then he or they so offendyng to be amerceded and the same amercement to be affored by the afferers of the same courte or lawdayes and furdre he or they so offendyng to be payned upon a certen some of money to be lymyted by the xij men of the seid Courtes or lawdayes for the tyme beyng not leke<sup>9</sup> to offende and yf they dyd offende contrarye to the same ordynaunces then he or they that so doyth offend yf the same were presented by the verdyt of xij men at the next court or lawdaye to forfeyte the seid penaltie to thuse of the Inhabytauntes of the Towne to the help of the payement of there seid fee Ferme.

The seid compleynaunt of his couetous malycyous and corrupte mynde of late haue obteyned a dwellyng place wythin the libertye of the seyde towne and inhabytyth withyn the same intendyng as moche as yn hym is to subuerte the good order and rule of the seid Towne and to decaye the inhabytauntes of the seid Towne so that they shall not be able to pay the seid fee ferme haue not only taken vpon hym to bake & brue to thentent to sell the same wythyn the seid Towne contrarye to the seid lawdable customez & vsage vsed wythyn the seid Towne tyme out of mynde The seid compleynaunt not named or appoynted for the same by the seid xxiiij but also to colour his couetous & corrupte mynde to procure his owne synguler lucre at the begynnynge of his seyde bakynge and bruyng dyd sell boythe brede and bere better chepe then the other bakers & bruers dyd wythyn the seid Towne to the entent to cause meny Customers to resorte vnto hym for the vtterance of his brede and bere by the whyche craftye and subtyll meanys he obteyned meny customeres After the whyche custome so obteyned the seid compleynaunt yn dysceyte of dyuers of the inhabytauntes of the seyde towne & other of the kynges lege people they not perceuyng his subtyll & Craftye demeynor dyd not onely sell to them boythe bere and brede of lesse weyghte & measure & derer then hit ought to be solde by the Statutes of Assyse<sup>10</sup> but also commonlye euery markett daye yn the seyde Towne bought Corne yn the same markett by ij<sup>d</sup> or iij<sup>d</sup> yn a busshell derer then eny other man bought yn the seid markett to thentent to inhaunce the price of Corne brought to the seid markett for his syngular lucre and proffyte he hauynge yn his handes and possessyon by the reason of his unlaw-

<sup>9</sup> Cp. B, p. 215, n. 37 *supra*.

<sup>10</sup> The 'Assisa Panis et Cervisie' is among the 'Statuta incerti temporis' ('Statutes of the Realm,' i. 200). (Cp. p. 124, n. 7 *supra*.) The 'Judicium Pilloric,' which follows, is an ancillary statute prescribing measnres to be taken for the

punishment of offenders against the Assize. So also the 'Statutum de Pistoribus,' ascribed by some to 13 Edward 1 (*ib.* p. 202). The 'Assisa de Ponderibus et Mensuris,' sometimes ascribed to 31 Edward 1, is printed on p. 204.

full engrossyng<sup>11</sup> of Corne and his parsonages<sup>12</sup> mylles and Fermez x or xij hundred quarteres of Corne whyche thing perceyued by the baylye of the seid Towne & other of the seid offycers of the seid Towne that by the seid craftye subtyll couetous & yll demeynor of the seid compleynaunt that the seid Vytaleres elected and chosen yn forme before specyfied were leke to lacke there lyuyng & to forsake the seid Towne & also there housys and dwellyng places leke to decaye & falle yn Ruen by the meanys wherof the inhabitauntes of the same Towne yn tyme to come shold be lesse able to paye there seyde Fee ferme accordyng to theyr seyde lawdable Customez & vsage caused the seid mysdemeynour of the seid compleynaunt at a lawdaye holden withyn the seid Towne to be presented by the xij men then sworne to enquire for the kyng<sup>13</sup> Whervpon the seid compleynaunt whas<sup>14</sup> payned in xl s. that he sholde no more bake & brue wythyn the seyde towne except he were there vnto auctorysed accordyng to the auntyent vse & custome of the seid Towne the seid compleynaunt not regardyng the brekyng of the seid order & penalyte dyd contynualle bake & brue and by the coloure therof do dayly engrose all maner corne and greyne and solde hit ageyn at suche markettes and places where he myght best sell hit for his singuler aduantage & profytt to the grete inhauncyng of the price of Corne as well yn the markett of the seid towne as yn all other markettes & places wythyn a grete compace of the seid Towne<sup>15</sup> to the grete impouerysshynge of the seid Towne & cuntrye nye adioynyng Without that that there whair eny suche scarsytye & lacke of brede & drynke yn the seid Towne &c.<sup>16</sup> And wythout that that eny other mater conteyned yn the seid byll materiall to be aunswered vnto is true All whyche matters &c.

(Indorsed) Concernyng the towne of Andeuor.

<sup>11</sup> This was an offence both at common law and by statute.

<sup>12</sup> The farming out of glebes, including the parsonage houses, was very common at this time. The advowsons were frequently held by the monasteries, the Church being served by them, and there being no resident parson. Cp. 'Brasenose College Quater-Centenary Monographs' (1909), Mon. ix. 3, 4 (Oxford Hist. Soc.).

<sup>13</sup> By the twenty-fourth article of the 'View of Frankpledge' ('Visus Franciplegii'), ascribed to the reign of Edward 2, the jurors were sworn to inquire 'of the Assize of Bread and Ale broken' ('Statutes of the Realm,' i. 246).

<sup>14</sup> Sic.

<sup>15</sup> This was properly the offence of regrating.' It was a common-law offence.

'Ingrossing' and 'regrating,' which are always coupled together, appear to describe two steps of what was substantially the same transaction. The ingrosser bought goods wholesale with a view to regrating, that is, selling them again wholesale. 'Regrator denotes him that buys and sells any wares or victuals in the same market or fair' (Cowel, 'Interpr.' s.v.). The statute 4 and 5 Ed. 6, c. 14 ('An Acte againste Forestaller Regratours and Engrossers') defined these three offences, that of regrating being extended to within four miles of the market wherein the purchase was made. Coke (3 Inst. 195) says that 'in ancient time both the ingrossor and regrator were comprehended under forestaller.'

<sup>16</sup> Defendants formally traverse allegations contained in plaintiff's bill.

BRYDGES v. CAWSYE AND OTHERS.<sup>1</sup>

To the kyng our soueraign Lord.

1540 In his most humble wyse complaynyng shewyth vnto your most excellent Hyghnes your poore subiect and dayly oratour George Brydges of London Letherseller That where (your)<sup>2</sup> sayd poor subiette hathe of late about vj yerres past by way of Informacion did<sup>3</sup> put yn execucion a certen statute or acte of parliament emongst other made the xxiiij<sup>th</sup> ye(re)<sup>2</sup> (of)<sup>2</sup> your most noble reign<sup>4</sup> for the comen welth of your most naturell subiectes of thys your Realme of England, that ys to saye that no persone nor persones after a certen Feast yn th(e)<sup>2</sup> (said) estatute lymytted<sup>5</sup> sholde put enny tanned lether to sale within the Citie of london or without nor within thre myelles compasse of the same Citie except the same was brought to the open markett of Leden Hall yn London forsayd there to be serched and viewed by suche as haue the serche therof that ys to saye the wardens of the Cordeweynars Corryars Gyrdelers and Sadlers for the tyme beyng and that vpon a payne as yn the same acte more pleyne apperyth agaynst one Rauff Asshedowne Tanner before the Lorde Treasurer and Barones of your Eschequyer to the which Informacion the sayd Asshedowne by hys attourney pledyd to the g(eneral)<sup>2</sup> issue that ys to saye that he the sayd Rauff Asshedowne solde nor put to sale enny tanned lether contrarye to the forme of your most gracious acte, and therupon a jury (was)<sup>2</sup> retorned from your Borough of Suthewerk to trie the sayd issue, wherupon the sayd Asshedowne was by the sayd jurye by reason of theyr verdict of the mysdemeanour contrary to the fourme of the sayd statute convicte, and a judgement therupon gyven aswell for your most gracious highnes aduauntage as for your sayd poore subiecte as by the recorde therof before the sayd lorde Treasurer and Barones more playne may appere, yet this notwithstanding most gracious soueraign lorde dyuerse and sundry persones beyng Tanners knowyng the sayd convixcion of the sayd Asshedowne nothyng regardyng the daungier of the sayd statute but wylfully and contempniouslye hathe euer sythens not only incurred the daungier of the sayd statute wickely vsyng to put to sale within the sayd Borough of Suthewerk moche tanned lether contrary to the tenure of the acte aboue sayde, but also do make

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 260. Introd. p. cxxiv.

<sup>2</sup> MS. cut.

<sup>3</sup> Sic.

<sup>4</sup> 24 Hen. 8, c. 10. See Introd. p. cxxvi.

<sup>5</sup> Michaelmas, 1533.



very moche lether dyssevable and ynsufficiently tanned to the dayly hurt hynderans and losse of your sayd subiectes, and for by cause most drad soueraign lorde that your sayd poore subiect hathe by the space of this xij<sup>th</sup> monthes geven his dylygent labour to take and note yn wrytyng the defautes of dyuerse persones offendyng the sayd statute sellyng theyr lether yn the Borough of Suthwerk that ys to saye yn Innes and Stables and other vsurped places one Wyllyam Cawsye Sadler hathe not onely of late commytted your sayd poore subiecte to your prysone or gayell in Suthwerk forsayd belongyng to the honorable Courte of your benche at Westminster<sup>6</sup> but also one John Staunton and Wyllyam Clough beyng witnes at the request of your sayd poore subiect to testifye the offences of the sayd Tanners and also one Edwarde Southern beyng sent on message to your sayd poore subiect from the Recorder of london was theyr lykewyse inprysoned and at the commaundement of the sayd Cawsye there was put vpon your sayd poore subiecte aswell as vpon the sayd John Wyllyam Clough and Edward a great payer of Shackels and not therwyth contentyd the sayd Cawsye knowing your sayd poore subiecte to be shackled cam to your sayd subiect yn to the sayd prysone and demaunded of hym a certen byll or wrytyng of tanners names who answeyrd hym though he had put your sayd poore subiecte yn irons he wold delyuer hym no wrytynges the sayd Cawsye then revyleng your sayd poore subiecte and callyng hym promoter and false knave sayeng he wolde have the sayd wrytyng from your sayd poore subiecte or he went and further sayeng to your sayd poore subiecte that hyt was a knaves parte to sue ony man vpon your most gracious actes and statutes the sayd Cawsye then accompaned with one Wyllyam Tayllour, Crystofer Hampton and other to the number of vij or viij persones then and there with force that ys to saye the sayd Cawsye holdyng one arme of your sayd poore subiecte and the sayd Crystofer Hampton an other arme yn forcible maner tooke from your sayd poore subiecte a certen paper booke wheryn was conteyned the names of dyuerse Tanners offendyng the sayd statute emongst other remembrances theryn conteyned but also the parcelles of suche lether by theym sold contrarye to the forme of the sayd statute all which parcelles of suche lether by them solde contrarye to the forme of the sayd statute whiche parcelles of lether amounted to the som of v or vj score poundes to your most gracious aduauntage

<sup>6</sup> It does not appear by what authority W. C. committed the complainant to gaol. The King's Bench prison in Southwark

was on the site of Leyton's Buildings. See W. Rendle, 'Old Southwark' (1878), p. 96.

all which matters your sayd poore subiecte hoely entended this present Terme of Ester to have put yn due execucion before the Justices of your please before your most excellent highnes to be holden and assigned, but also with lyke force took from your sayd poore subiecte dyuerse wrytynges as well obligatorye as other to the som of vj or vij *li.* to the great losse and hynderans of your sayd poore subiecte and to the vtter dyscoragyng of hym and all other which hereafter shulde prosecute the execucion of any suche statutes But also to the perilous example of all other lyke offendours onles spedy reformation by your excellent Maiestye and by your most honorable Counsaile the rather herin be not provyded. In tender consideracion wherof hyt may please your most excellent highnes the premysses tenderly consyderying to graunt your most gracious wryttes of Subpena to be dyrectyd to the sayd Wyllyam Cawsye commaundyng hym by vertue therof personally to appere before your excellent hyghnes and your sayd most honorable Counsell at Westminster at a certen day and vnder a certen payne by your hyghnes to be lymytted there to make answere to the premysses and further to stand and obey to suche order and direccion as shalbe thought by your highnes and your sayd most honorable Counsell to be necessary and expedient yn this behalf. And your sayd poore subiecte shall dayly pray to God for the prosperous estate of your most excellent highnes long to continue.

*Indorsed in modern hand.*

Brydges

v.

Cawsye.

PETITION OF THE BUTCHERS' COMPANY.<sup>1</sup>

1540

In moste humble wise shewen vnto your Highnes the Masters Wardeins and Fellisship of the Bochers<sup>2</sup> of your Citie of London That where in your parliament holden at Westminster by prorogacion

<sup>1</sup> S.C.P. Hen. 8, vol. vii. f. 213. Introd. (p. li).

<sup>2</sup> The Butchers' Company appears to have been an 'adulterine gild,' that is, without a royal charter, and was on that account compelled to pay a fine to the Exchequer in 1180. The Butchers had three markets

in the City—one at 'Stokkes,' near the Mansion House, one in Eastcheap, and one at St. Nicholas's Shambles, now Newgate Street. They did not receive a charter till the reign of James I (P. H. Ditchfield, 'The City Companies of London' [1904], pp. 209, 211).

the xxiiij<sup>th</sup> yere of your moste noble Reigne<sup>3</sup> yt was enacted ordeyned and establisshed by your Maiestie the lordes spirituall and Temporall and the Comons in the said parliament than assemblid and by Auctoritie of the same parliament<sup>4</sup> that euery person whiche shuld sell by hym self or any other the Carcases of Bieffes porke moton or veale or any part or parcell therof after the first day of August than next ensuing shuld sell the same by liefull weight called Haberdepoyes and none otherwise. The said flesshe to be Cut out in reasonable peces according to the request of the byer in lyke fascion as afore that tyme was vsid without fraude or covyn and that euery persone whiche by hym self or any other shuld sell any Flesshe of the said Carcases shuld haue with hym where he shuld make sale of the said flesshe sufficient beames scales and weightes sealid<sup>5</sup> called Haberdepoyes for true seruing of the byers. And that after the said first day of August no persone nor persones take nor cause be taken for any pound weight of Flesshe of the Carcases of bief or porke by hym or them to be solde aboue the price of one halfpeny nor for any pound weight of flesshe of the Carcases of Moton or veale aboue the price of one halfpeny and half Farthing without deceyte or covyn vpon payne to forfyte for euery pound not sold by weight or aboue the said price lymitted and for euery default doon contrary to the true meaning of the said Acte iij<sup>s</sup>. iiij<sup>d</sup>. The one moitie therof to be to your highnes and the other Moitie to the partie that will sue for the same by bill plainte or infourmacion in whiche sute non essoin<sup>6</sup> wager of lawe<sup>7</sup> nor proteccion<sup>8</sup> shuld be allowed. The heddes neckes inwards

<sup>3</sup> Henry 8's fifth Parliament, summoned to meet at London November 3, 1529; dissolved April 4, 1536. This was the fourth session holden at Westminster by prorogation on February 4, 24 Henry 8 (1533).

<sup>4</sup> Act 24 Hen. 8, cap. 3, 'An Acte for Fleshe to be sold by weight.'

<sup>5</sup> The practice of sealing weights as proof of conformity to standard was as old as the time of Cnut ('Die Gesetze der Angelsachsen,' Leipzig, 1858, p. 274), and had been repeatedly enforced by the kings since the Conquest. See 'Select Cases in the Star Chamber' (1902), pp. cxlvii-cl.

<sup>6</sup> Excuse; a legal term. 'A short clause about "applications for an enlargement of time" takes the place of the bulkiest chapter of our old law, the chapter on essoins, or excuses for non-appearance. That law strove to define rigorously the various reasonable excuses which might prevent a man keeping his day in court—the broken bridge, the bed-sickness (*malum*

*lecti*), the crusade, the pilgrimage to Compostella. For every cause of delay it assigned a definite period: even a bed-sickness will not absolve a man for more than a year and a day' (Pollock and Maitland, 'Hist. of English Law' [1895], ii. 560).

<sup>7</sup> 'To wage Law, vadiare legem, is to put in security that he will make Law at a day assigned (Glanvill, lib. i. cap. 9). And to make Law is to take an Oath that he owneth not the Debt challenged at his hand,' &c. (Cowel, 'Interpr.' s.v. Law).

<sup>8</sup> 'Protection in the special signification is used for an Exemption or Immunity given by the king to a Person against Suits in Law, or other Vexations, upon reasonable causes him thereunto moving, which is a branch of his Prerogative' (Cowel, 'Interpr.' s.v.). The lawyers, however, sought to limit it by defining it, as Fitzherbert's distinctions shew ('Natura Brevium,' f. 28), in addition to which Parliament, as in the present instance, prohibited by statute certain specified exercises of it.



portenaunces legges nor Fete to be accomptid as parte of the Carcases forsaid but suche to be solde at a lower price as by the said Acte among other thinges more plainly apperithe. Whiche Acte was in all thinges by your said Oratours well duely iustely and truly executed according to the tenour and purporte of the same vntill your graces parliament holden at Westminster by prorogacion the xxvij yere of your moste noble Reigne.<sup>9</sup> At whiche tyme it was than and there for and vpon diuers good causes and consideracions enacted Ordeyned and establisshed<sup>10</sup> that from the xij<sup>th</sup> day of Aprill the yere of our lord god m<sup>v</sup>cxxxvj vntill the xxiiij<sup>th</sup> day of Aprill whiche shuld be and was in the yere of our lorde god m<sup>l</sup>v<sup>c</sup>xl All Bochers and other selling Flesshe by retaile may lafully kill and sell almaner of bief porke moton and veale being good and holsom for mannes body at their pleasures and liberties as freely and liberally as they or any of them did or might haue doon at any tyme before the said Estatute made the xxiiij<sup>th</sup> yere of your moste noble Reigne And also before an Other estatute concerning the same made in the xxv<sup>th</sup> yere of your moste noble Reigne<sup>11</sup> without any losses payne imprisonment forfeiture or penaltie to be by them or any of them or the Successours of them or of any of them had loste borne or susteyned in that behalf during the tyme before rehersed. The same Estatutes or any of them to the contrary in any wise notwithstanding And that the same Estatutes and eyther of them and euery Clause sentence and Article in them or in eyther of them conteyned shuld be in suspence and not put in execucion during the said terme as by the said Act made the said xxvij<sup>th</sup> yere of your moste noble Reign among other thinges more plainly apperithe. Whiche Actes before rehersed concerning the selling of flesshe by weight as is aforsaid if they shuld hereafter be put in execucion and your said Oratours compellid to sell fleshe by weight according to the purporte tenour and effecte of the said Estatute made the xxiiij<sup>th</sup> yere of your moste noble Reign shuld be to the vtter vndoing of your said Oratours for euer considering suche daily charges as they susteign and bere aboue all other persones within this your Realme Occupiyng the feate or Craft of bochers. For where in diuers and the moste part of places within this your Realme an Acre of the best lond for pasture is letten at iijs. or vs.<sup>12</sup>

<sup>9</sup> February 4, 27 Henry 8 (1536). This was the seventh session of the Parliament which met November 3, 1529.

<sup>10</sup> Act 27 Hen. 8, c. 9 (1536), 'An Acte lycensyng all Bochers for a tyme to sell vytell in grosse at theyr pleasure.'

<sup>11</sup> 25 Hen. 8, c. 1 (1534), 'An Acte concernyng Grasiers and Bouchers.'

<sup>12</sup> If this statement be correct, and the policy of the petitioners would not be served by exaggeration, it cannot be applied to ordinary pasture land, but to 'accommo-

or vnder your said Oratours pay for suche land as they hire for pasturing and feding of their beastes and Catall about the Citie of London no lesse than xs. or xijs. the Acre or more and stond charged daily with the fynding of many moo persones for theexercising of their said craft and misterie than other bochers or vitellers within any part of this your Realme stond and be chargid with ouer and besides the finding them selves their Wifes Children seruauntes and familye <sup>13</sup> the grete charges of the Rentes of their houses and Shoppes within the said Citie seruauntes wages and diuerse and sondry charges and impositiions from tyme to tyme rising growing and commying within your said Citie of London vpon thenhabitauntes of the same whiche in other places of your Realme seldom happen to fall or comme And also if the said Estatute made the said xxiiij<sup>th</sup> yere of your moste noble Reigne shuld be hereafter put in execucion and your said Oratours driven to sell their vitailles by weight only according to the said Estatute they shall not be Able at diuers tymes whan grete concourse and confluence of people happen to resort and com vnto your said Citie as they often tymes doo to serue the said people in conuenient tyme and space, and to deliuer the same to euery byer therof by weight, but shalbe often tymes so intricate<sup>14</sup> lettid and troubled by the nomber of People resorting vnto them for biyng of vitailles that many of them shalbe driven to tary for their vitale out of all conuenient tyme Orels depart and go away without any vitailles whiche shalbe to the grete inquietnes trouble and hurt of all your Subiectes. It may therfore pleas your Maiestie that yt may be by your Highnes and by thassent of the Lordes spirituall and Temporall <sup>15</sup> the Commons in this present parliament assemblid and

dation land,' that is, land adjacent to towns on which beasts were kept at pasture till the butchers were ready to kill, land always commanding an exceptional rent. An analysis of the Returns to the Inquisition of 1517 shews that ordinary pasture land at that date commanded, in the case of land let by laymen, whose rents were higher than those of ecclesiastics, an average of 9<sup>3</sup>/<sub>4</sub>d. an acre ('Domesday of Inclosures, 1517' [1897], i. 96). But, undoubtedly, rents had risen since 1517. 'Complaints made about the spoliation of the tenants' improvements and good husbandry by a penal rise in rents, with the alternative of eviction and loss, are made by Fitzherbert before the king and the Pope quarrelled, and while the dissolution of the monasteries was only a talk in the air' (J. E. T. Rogers, 'Six Centuries of Work and Wages' 1884], ii. 445). Fitzherbert's 'Boke of

Surveyenge and Improvements' appeared in 1523. In the prologue he says: 'I aduertise and exhorte on goddis behalfe all maner of persones, as well lordes as other . . . that the lordes nor the owners thereof doo not heyghten theyr rentes of theyr tenantes, or cause them to pay more rent, or a greater fyne than they have bene accustomed to do in tyme past. For, as me semeth . . . a greater bribery nor extortion a man cannot do than upon his owne tenantes, for they dare not say nay, nor yet complayne.'

<sup>13</sup> See Introduction, p. xxxix.

<sup>14</sup> That is, intricate, embarrassed, from the verb to 'intricate.' Cf. 'Statutes of the Realm,' 2 and 3 Ed. 6, c. 21, § 1: 'They myght . . . be lesse entricated and troubled withe the chardge of householde.'

<sup>15</sup> 'and' omitted.

by the Auctoritie of the same Ordeyned establysshed and enacted that the said estatute made in the xxiiij<sup>th</sup> and xxv<sup>th</sup> yere of your moste noble Reign may be repellid adnichilated made frustrate and voide ageinst your Oratours and their Successours And that yt may from hensforth be liefull<sup>16</sup> vnto your said Oratours to sell their vitales from tyme to tyme by them selves their wiffes and seruauntes to almaner persones that will bye the same in like maner and fourme as they might haue doon before the making of the said Estatutes or of any of them without any daungier payne penaltie or forfeiture to be had in the same any thing in the said Estatutes or in any of them conteyned to the contrary notwithstanding Prouided alweis that this Act nor any thing therin conteyned shall extend to any other persone or persones occupying the fete or Craft of Bochers or that hereafter shall occupie the said crafte in any place or places within this Realme but only to suche as be and shalbe dwellers inhabitauntes and Fremen of the said Citie of London but that the Acte and Actes before rehersed ageinst all other vitailleurs and bochers other than suche as be and shalbe dwellers enhabitauntes and freemen of the said Citie of London shall stand and Abide in his full strengthe and vertue, any thing in this Acte conteyned to the contrary notwithstanding.<sup>17</sup>

(Indorsed) An Acte for the Bochers of London.

(In a later hand) Butchers Company.

14.

ATTORNEY GENERAL *v.* DANBY & OTHERS.<sup>1</sup>

1542 A. To the right honourable the lord Archebishopp of Caunterbury,<sup>2</sup> the lord Chauncellor of Englund,<sup>3</sup> the lord Treasurer

<sup>16</sup> Lawful.

<sup>17</sup> This petition passed into the Act 33 Hen. 8, c. 11 (1542), 'An Acte for Butchers to sell at their Pleasures by Weight or otherwise.' The Act, however, omitted from 'considering'—which introduces the topic of the charges upon the Butchers, and the public inconvenience likely to arise from a revival of the former prohibitions—down to the beginning of the operative clause, 'It may therefore pleas your Maiestie,' &c.

<sup>1</sup> S.C.P. Hen. 8, vol. ii. f. 167. The data for fixing the year as 1542 are as follows:—The date of the latest offence set out is October 3 (33 Hen. 8 [1541]). By the Act 31 Hen. 8, c. 8 (1539), under which these proceedings were taken, the charge must be brought within six months of the

offence. The pleadings were, therefore, probably not completed, assuming the information to have been laid promptly, before the early part of 1542. The office of Lord Privy Seal, vacated by Lord Southampton's death in October 1542, was not filled up till December 3, when Sir John Russell, Lord Russell, K.G., was formally appointed, though he had since October acted as deputy (L. and P. Hen. 8, xvii. 1251 [7]; cf. ib. 979). See also Introd. p. xxvi.

<sup>2</sup> Thomas Cranmer, born at Aslacton, Notts, July 2, 1489, Fellow of Jesus College, Cambridge; Archbishop of Canterbury, March 30, 1533; burnt at Oxford, March 21, 1556 ('Dict. Nat. Biog.').

<sup>3</sup> Sir Thomas Audley, lord Audley of Walden; born 1488, educated at Magdalene College, Cambridge; Autumn Reader in



of England,<sup>4</sup> the lord president of the kynges most honourable Counsell,<sup>5</sup> the lord pryuy seale,<sup>6</sup> the greate chamberleyn of Englund<sup>7</sup> & other the kynges most honourable Counsell namyd & appoynted by an Acte of Parlyament made at Westminster the xxvij<sup>th</sup> day of Aprell in the xxxj<sup>th</sup> yere of the reigne of our souereign lord kyng Henry the viij<sup>th</sup> for the heryng & determynacion of the contemptes & offences commytted & don by eny person or persons contrary to the kynges highnez proclamacon set furthe made and proclaymed by the kynges highnez & his most honourable Counsell namyd in the seid Acte or the most parte of them by vertue of the said Acte.<sup>8</sup>

the Inner Temple, 1526; Chancellor of the Duchy of Lancaster and Speaker of the House of Commons, 1529; king's serjeant, 1531; Lord Keeper, 1532; Chancellor, January 26, 1533; created a peer, 1538; resigned the Chancellorship, April 21, 1544; died April 30, 1544 (J. Haydn, 'Book of Dignities' (ed. 1890); 'Dict. Nat. Biog.').

<sup>4</sup> Sir Thomas Howard, appointed Lord Treasurer as Earl of Surrey in December 1522; succeeded as third Duke of Norfolk, 1524; died 1554 ('Dict. Nat. Biog.').

<sup>5</sup> Sir Charles Brandon, Duke of Suffolk, an early favourite of Henry 8; knighted, 1512; created Viscount Lisle, 1513, and Duke of Suffolk, 1514; married the King's sister Mary, Queen Dowager of France, 1515; Lord President of the Council, 1530 (L. and P. Hen. 8, iv. 6199); died 1545.

<sup>6</sup> Sir William Fitzwilliam, Earl of Southampton, younger son of Sir Thomas Fitzwilliam, of Aldwarke, West Riding of Yorkshire, by Lucy, daughter and co-heir of John Neville, Marquis of Montacute; a naval officer, knighted for his services and created Vice-Admiral of England in 1513; ambassador to France, 1521; K.G., 1525; Earl of Southampton, 1537; Lord Privy Seal upon Cromwell's fall, June 1540 (L. and P. xv. 804); died at Newcastle-upon-Tyne, when leading the van of the army against Scotland, October 1542 ('Dict. Nat. Biog.').

<sup>7</sup> Sir John de Vere, sixteenth Earl of Oxford, born about 1512, styled Lord Bolebec or Bulbeck till his succession to the peerage on March 21, 1540; Hereditary Great Chamberlain; knighted at the coronation of Edward 6; an adherent of Lady Jane Grey; died 1562 (G. E. C. 'Complete Peerage').

<sup>8</sup> This was the famous statute (31 Hen.

8, c. 8 [1539]). The preamble recites the justification of the Act as being the disobedience to proclamations touching matters religious and civil owing to the absence of legal power to enforce them; the occasional need of urgent action by the executive and the king's indisposition to stretch his prerogative. The Act then proceeds to empower the king, with the assent of the majority of the Council, whose offices are set out, to issue proclamations which are to have the force of Acts of Parliament, such proclamations not to prejudice life or property, nor to repeal existing laws. The sheriffs are to publish any such proclamation in four market towns or six towns and villages. Offenders on conviction before the Council in the Star Chamber shall incur the penalties specified in the proclamations, if published in the shire where such offender dwells. The Act then continues as follows: 'If any person or persons . . . whiche at any tyme hereafter doe wilfully offend and breke or obstinatlye not observe and kepe any such proclamacion or any article therein conteyned which shall procede from the Kinges Majestie by thadvise of his Counsell as is aforesaide, that then all and everie such offendor or offenders, beinge thereof within one halfe yere next after their or his offence commytted accused, and therof within xvij<sup>th</sup> monethes next after the same offence soe [committed] convicted by confession or lauffull witnes and proffes before the Archebyschopp of Canterburie Metropolitan, the Chauncelor of Englande, the Lord Tresorer of Englande, the President of the Kinges most honorable Counsell, the Lord Privie Seale, the Great Chamberlayne of Englande, Lorde Admyrall, Lorde Stewarde or Graunde Maister, Lorde Chamberleyn of the Kinges most honorable Houshold, two other Bisshopys beinge of

In most humble wyse shewyth vnto your honourable lordships William Whorwod the kynges generall Attourney<sup>9</sup> for & on the parte

the Kinges Counsell, suche as his Grace shall appoint for the same, the Secretarie, the Treasurer and Controller of the Kinges most honorable Housholde, the Maister of the Horse, the two chief Judges and the Maister of the Rolles for the tyme beinge, the Chauncelor of the Augmentacions, the Chauncelor of the Duchie, the Chief Baron of the Exchequer, the two generall Surveyors, the Chauncelor of the Exchequer, the Under Treasurer of the same, the Treasurer of the Kinges Chamber for the tyme beinge, in the Sterre Chamber at Westminster or elsewhere, or at the lest before the halfe of the number afore rehersed, of which number the Lorde Chauncelor the Lorde Tresorer the Lorde President of the Kinges most honorable Counsell the Lorde Privy Seale the Chamberlen of Englund the Lorde Admyrall the two Chief Judges for the tyme beinge or two of them shall be two, shall lose and paye such penaltyes . . . and also suffer suche ymprisonment of his bodye as shalbe expressed mencióned and declared in anye suche proclamacion or proclamacions,' &c. This constitutes not the Court of Star Chamber but a special tribunal to try this particular offence, and no other. The Lord Steward and the Grand Master being the same official (31 Hen. 8, c. 10, § 4), the full Court numbered twenty-six judges. A minimum number of thirteen formed a quorum. Assuming the six great officers of Church and State here enumerated to have been supported by at least seven of the other statutory members, the Court would be in conformity with the Act. It is, however, curious that while pains are taken, by the enumeration of the members of the Court sitting, to shew that two, at least, of the officers indispensable to its composition were present, the information is not careful to set out that in the matter of the number of the judges present the Court was legally constituted.

<sup>9</sup> The name of William Whorwood, or Horwood, successively Solicitor-General and Attorney-General to Henry 8, is unaccountably omitted from the 'Dictionary of National Biography.' He was the younger son of John Whorwood, of Compton, Staffordshire, by Elizabeth, daughter of Richard Corbyn, of Corbyn's Hall (S. Shaw, 'Hist. of Staffordshire' [1801], ii. 129). He was perhaps the Whorwood who was a member of the Middle Temple in 1520-24 ('Middle Temple Records,' i. 63, 65, 76). Here he appears to have been a friend of Richard Lyster, Solicitor-General, 1522-26, afterwards Chief Justice of the King's Bench (ib. 76). In 1526 he was a

candidate, against Richard Rich and Thomas Audley, among others, both of them afterwards Chancellors, for the office of Common Serjeant of the City of London, but it was given, in deference to a recommendation from the king, to William Walsingham (L. and P. iv. 2639; J. Stow, 'Survey of London' [ed. 1755], ii. 244). He was probably the William Horwood who was returned to the Parliament of November 1529 for the borough of Downton, Wilts ('Members of Parliament,' 'Parliamentary Papers' [1878], lxii. i. 371). The rolls of the two succeeding Parliaments in 1536 and 1539 have not been preserved and his name is not to be found in the Parliament of January 1542 (ib.), but that he was in the Parliament of 1536 we know from other sources. He first married Cassandra, daughter of Sir Edward Grey of Enville, Staffordshire, by Joyce, daughter of — Whorwood, of Bridgnorth, Salop (S. Erdeswick, 'Survey of Staffordshire' [ed. 1844], pp. 380, 386). His daughter by this marriage, Anne, became the wife of Ambrose Dudley, afterwards Earl of Warwick, third son of John Dudley, afterwards Duke of Northumberland. According to Shaw (i.e.) his first wife was 'Mary, daughter to Brooke Corbyn, baron of the Exchequer, temp. Henry 8.' It does not appear, however, that any such judge existed, and on p. 230, in the Corbyn pedigree, Shaw omits her Christian name and states that she was daughter of Nicholas Corbyn, of Hall End, Warwickshire. Erdeswick says that she was Mary, daughter of Richard Brooke and relict of — Sheldon, and that by her Whorwood had a daughter 'Margaret, married to Thomas Throgmorton, Esquire.' But the Letters and Papers shew that the name of his second wife, whom he married before 1536, was undoubtedly Margaret. This was the Christian name of the youngest of the four daughters of Sir Richard Broke, Lord Chief Baron of the Exchequer (d. 1529). Nash in his 'History of Worcester-shire' (1781), i. 64, is probably correct in saying that this was the (second) wife of William Whorwood, A.-G., and that she married after his death William Sheldon of Besley, in that county (d. 1570), she herself dying in 1589, at the age of 80. Whorwood's name occurs from time to time in the earlier Letters and Papers of Henry 8's reign in connexion with legal business. On April 13, 1536, he was appointed Solicitor-General in succession to Richard Rich. He was on a special commission sent down for the trial, and execution, of



& behalfe of our seid souereign lord kyng Henry the eight That where in the parlyament begonne & holden at Westminster the xxviii<sup>th</sup> day

'the rebels in the West,' in the same year (L. and P. xi. 381, A). At the conclusion of the Parliament of 1536, which met on June 8 and was dissolved on July 18, Whorwood received a gratuity from the king of 26*l.* 13*s.* 4*d.* 'for his pains in the time of the Parliament' (ib. C). On December 3, 1536, he was nominated on the commission of the peace for Staffordshire (ib. 1417, 3). In March 1537, after the suppression of the Lincolnshire insurrection, he was upon a commission for trying the prisoners, and showed a marked zeal to convict. Thirty-four were condemned to death in one day (ib. xii. i. 590). His services were rewarded by a grant in fee of the reversions and rents reserved of the lordships and manors of Stourton and Kynvere, Staffordshire (October 1, 1537) (ib. xii. ii. 1008, 4). This grant is to himself and Margaret his wife. In February 1538, Whorwood was first put on the commission of the peace for Worcestershire (L. and P. xiii. i. 384, 21), an appointment renewed in subsequent years, and in the following July, and afterwards, for Surrey as well as Staffordshire (ib. i. 1519, 10, 35; xvi. 580, 36). He obtained a grant, in fee simple, from the Duke of Suffolk on December 22, 1538, to himself and his wife Margaret and their heirs, of the manor of Brome, Staffordshire, 'with all his (the duke's) lands there and in Kydermyster, Worcestershire, which he has of the king's gift' (xiii. ii. 1118). He appears from various references to have been a real property lawyer of repute, and in 1539 received fees from the Court of Augmentations to the amount of 64*l.* 16*s.* for legal services in 'divers exchanges of lands' (ib. xiv. ii. 236, p. 74). 'In reward for their pains in penning and writing of sundry Acts in the time of late session of this Parliament,' he and John Baker, the Attorney-General, received in 1539, '30*l.* a piece, and to their clerks 6*l.* 13*s.* 4*d.*, to be equally divided' (ib. 781, p. 312). In the same year he was appointed one of the executors of John Stokesley, Bishop of London, who died on September 8 (ib. 133). His nomination suggests that his views upon religious matters were conservative, since the bishop belonged to that school. Whorwood must have accumulated a considerable fortune, for on April 16, 1540, upon payment of 918*l.* 20*d.* to the Crown, he obtained grants in favour of himself and Margaret his wife, of the reversions and yearly rents reserved upon nineteen parcels of lands and tenements in Staffordshire, Shropshire, and Worcestershire, for-

merly belonging, for the most part, to dissolved monasteries, besides joint-grants of two other estates, to himself and others, presumably in trust (xv. 611, 26). If this expenditure was out of his savings acquired at the Bar, he must have been paid by some clients on a more liberal scale than by Sir Thomas Heneage, who enters among his household expenses for 1534, 'To Mr. Horewod for counsel, 3*s.* 9*d.*' (ib. xvi. 217). Upon the appointment of Sir John Baker, the Attorney-General, as Chancellor of the Exchequer, Whorwood succeeded to the vacancy (November 8, 1540) (ib. xvi. 305, 18). He received in the same year annuities charged on Crown property at Fleggham, Sussex, St. Mary's Hospital without Bishopsgate, and on the lands of the late monasteries of Shaftesbury, Wyncbecombe, Pershore and Launde (ib. xvi. 745, p. 3), and was made steward of Vale Royal, Cheshire (ib. p. 714). He prosecuted, as Attorney-General, for the Crown, Culpeper and Derham, convicted of high treason for misconduct with Queen Katharine Howard (December 15, 1541) (ib. 1395 [41]). In this matter he advised that the Duchess of Norfolk and others were guilty of misprision of treason (ib. 1422). Together with Sir Thomas Wriothesley, one of the two principal Secretaries of State, and Richard Pollard, the king's Remembrancer of the Exchequer, he was commissioned to take the inventory of the goods of the Duchess in her house at Lambeth (ib. 1438, 1445, 1467). He was also at times employed as a commissioner of assize and jail delivery, for the Midland and Oxford Circuits, in February 1541 (ib. 580, 17, 20). Together with the Bishops of Durham, Rochester, and Westminster, he was, on June 11, 1541, commissioned to inquire into a petition by a released nun for the legitimation of her marriage with an ex-priest, and 'to pronounce the marriage valid if they so find it' (ib. 947; cf. ib. xix. 442, 25). He was a member of a commission of sewers for the suburbs of London (xvi. 1056, 23). He is doubtless the William Horwood who is set down under 'Surrey' in 1543 as able to furnish six foot soldiers towards the army for Flanders, he having an estate at Putney in that county (ib. xviii. i. 832). In May of the same year he was one of a body of commissioners for the sale of Crown lands to the yearly value of 10,000*l.* (ib. 623, 29). He purchased in the following July, perhaps from among the sales by this commission, for 648*l.* 19*s.* 2*d.* the manor of Alveley, Salop, the rectories of Kynvare or Kynfare,



of Aprell in the xxxj<sup>th</sup> yere of the reigne of our seid souereign lord kyng Henry the viij<sup>th</sup> 10 It was ordeyned and enactyd emonges other thynges that the kynges highnez with thaduyse of his honourable Counsell namyd & expressed in the seid Acte or the more parte of them mought make & set furthe proclamacons for the good & polytike ordre & gouernance of this realme Wales & other the kynges maiesties domynions from tyme to tyme for the defence of his regall dignyte & auauncement of his gracys comen wealthe & good quyetie of his people as the cases of necessyte shuld requyre vndre such penalytes & peynes & of such sorte as to his highnez & to his honourable Counsell or the more parte of them shuld seme necessarye & requysyte And that the seid proclamacons shuld be obeyed obserued & kept for the tyme in them lymyted as thoughe they were made by acte of parlyament vnles the kynges highnez dyspence with them or eny of them vnder his highnez greate seale as by the said Acte with dyuerse articles & prouysions in the same conteyned more pleyntly

Staffordshire, and Gwytyng Power, alias Netherguytting, Gloucestershire, the 'late house of Friars of Thellesford alias Thellsford,' Warwickshire, land in Charlecote, in tenure of William Lucy, and in Wasperton, also in Warwickshire and the advowsons of Nethergwytyng, and of Brome, Staffordshire (ib. 981, 30). It is evident from the Letters and Papers that the work of this commission during 1543 and 1544 kept him busily engaged, and so numerous were the documents requiring the signature of the king, whose health was impaired by an ulceration of the leg, that a stamp was adopted (ib. xix. 278, 4). He added to his estates in April 1544 the manor of Dedlewyke alias Dudlewyke, Salop, and lands in Stoterton and Chatton alias Chetton, and Hynton, Salop, with the advowsons of Stoterton vicarage and Farlowe chapel. For these he paid 400*l.* 5*s.* (ib. 444, 1). On May 3 following he obtained a licence to hold a weekly market at Kynvare alias Kynfare, Staffs, and two annual fairs, a profitable privilege (ib. 610, 56). Another large purchase of lands, at the cost of 791*l.* 6*s.* 8*d.*, was made by him in July. They consisted of the manor of Hallynge, alias Hawlynge, Gloucestershire; lands in Typton and Rowley, Staffs; lands, &c., in Wenlocke Magna, and Marsshe, Salop, and the advowson of the rectory of Hallynge, Glouc. (ib. 1035, 155, and ib. ii. p. 353). He died probably in the last days of May 1545. A curious letter is preserved from Hugh Meire, 'written at the parsonage house of Rosthorne, 24 Dec.' of that year. The writer, presumably the

vicar of Rosthorne, Cheshire, addresses Henry Bradshaw who, having succeeded Whorwood as Solicitor-General, now succeeded him as Attorney-General, to which office he had been appointed on June 18 (ib. xx. 1081, 41). Having been informed that his 'old master,' William Whorwood, had declared no will, or if he did, was not of perfect memory to do so, he proceeds to state that he (Whorwood) had declared his last will in presence of six witnesses, whom he names, 'and I wrote it upon a cupboard, standing by the bedside where Mr. Wm. Whorwod lay sick. . . He was in as good and perfect memory as any man could be.' He then sets out the contents of this will, from which it appears that the testator left to his wife, Margaret Whorwod, the third part of his property for life. His brother, 'Sir' Richard Whorwood, clerk, and the children of his brother John Whorwood, and his brother-in-law Roger Fowke were legatees; 'and he ordained Mistress Margaret then his wife, Mr. William Grey and Mr. William Walter, then being his clerk, to be his executors.' This incident is stated to have taken place 'on Wednesday in Whitsun week last,' which in 1545 would be May 27 (L. and P. xx. ii. 1033). A will was proved in the Prerogative Court of Canterbury in the same year, the testator being described as 'esquier, Putneyth [Putney Heath], Surrey.' The omission of any mention of children throws additional doubt on the pedigree in Shaw (ii. 129).

<sup>10</sup> 1539.

& particularly is mencioned & expressed,<sup>11</sup> And where also our seid souereign lord the kyng hauyng knowlege by credable informacon that dyuerse and sundrey persons aswell his owne Subiectes as other hadd conveyed & transported & dyd dayly carry & transporte out of this his realme of Englund & other his maiesties domynyons<sup>12</sup> without his highnez lycence vndre his greate seale<sup>13</sup> wheate, rye, malte, barley, beanes, pease, otes, byllet,<sup>14</sup> tymber,<sup>15</sup> tanned lether, hides,<sup>16</sup> horses,

<sup>11</sup> 31 Hen. 8, c. 8. 'An Acte that Proclamacions made by the Kinges Highnes with thadvise of his Honorable Counsell shalbe obeyed and kepte as though they were made by acte of Parliament.' See further, Introd. p. xx supra.

<sup>12</sup> Presumably Calais, for the supply of which the Government was constantly solicitous. In the later statute of 1 & 2 Philip & Mary, c. 5, the garrisons of Calais and Berwick are excepted from the prohibition to export.

<sup>13</sup> By the Act 17 Ric. 2 c. 7 (1394), the export of corn, which had been prohibited by 34 Ed. 3, c. 20, except to Calais and Gascony, was legalised, but with a proviso that the king's Council might restrain it 'when they shall think best for the profit of the realm.' This proviso appears to have, in effect, taken the place of the substantive Act, so that in the 15 Hen. 6, c. 2 (1437), the preamble recites 'pur ceo que la leie ordeinee null home poet carier ne amesner blees hors du Roialme Dengleterre saunz licence du Roy.' The Act then legalises the export of corn, except to the king's enemies, without licence, on payment of the customs duty. This Act, having expired with the Parliament which passed it, was renewed in 1442 by the 20 Hen. 6, c. 6, which added the proviso that export would not be legal when the price of wheat exceeded 6s. 8d., and that of barley 3s. a quarter. The renewing Act was made perpetual in 1445 by 23 Hen. 6, c. 5. Nevertheless, the power reserved to the Council to issue restraining orders was so frequently made use of that it was probably found prudent to purchase a licence to export. This practice received statutory sanction in 1534. The 'Acte of proclamacion to be made concernyng victualles' (25 Hen. 8, c. 2) reversed the policy of the Acts of Richard 2 and Henry 6, and forbade the export of the articles of food enumerated 'oneles it be by licence under the Kynges Grete Seale.' The prohibited articles were cheese, butter, capons, hens, chickens, 'and other victualles necessarie,' besides 'corne, beoffes, muttuns, veales, (and) porkes.'

<sup>14</sup> By the later Act 34 & 35 Hen. 8, c. 3 (1543), 'An Acte for thassise of Wood

and Cole' a 'Billet' was a statutory measure of wood 3 ft. 6 in. long and 9 in. 'about the myddes.'

<sup>15</sup> The growing scarcity of wood was already felt, it being at this time the fuel chiefly used, especially in London, where coal-smoke was believed injurious to health. Notwithstanding this, an export trade in wood flourished, chiefly from Kent and Sussex, from which latter county one dealer exported 16,000,000 billets in the four years 1526-29 (L. and P. Hen. 8, iv. 2132, 2927 [12]). There being no statute regulating this trade, the Privy Council controlled it and exacted the purchase of a licence (ib. ii. 1641, 3756; iii. 3062, &c.). It was generally shipped to Calais, which was supplied from England as a measure of military precaution. In 1533 a prohibition was issued against the export of wood elsewhere than to that port (ib. vi. 1585), the object being to recruit the finances of the staple of Calais which furnished the Crown with large sums (ib. v. 1703). The temptation, however, to raise ready money by the issue of licences to export elsewhere, though resisted by Cromwell (ib. vii. 937), frequently prevailed (ib. ix. 255; xi. 418, 1341). Wood was also smuggled abroad (ib. vi. 1461) as this bill alleges.

<sup>16</sup> The export of leather was one of the ancient staple trades of the country, the duties being (1) *custuma antiqua* sive magna, at this time 13s. 4d. a last, and the subsidy, which was 3l. 6s. 8d. for English and 3l. 13s. 4d. for foreign exporters, besides an import duty at Calais, to which the merchandise of the staple was shipped in conformity with statute, of 16d., from all merchants alike (G. Schanz, 'Englische Handelspolitik' [1881], ii. 6). Leather was rapidly rising in price during Henry 8's reign. The best ox hides rose from 1s. 5½d. during the decade 1491-1500 to 3s. 5d. in that of 1521-30, 4s. 10d. in 1531-40 and 5s. 10¾d. in 1541-50 (Rogers, 'Hist. Ag. and Pr.' iv. 328). An Act passed early in 1536 'concernyng the custome of Lether' (27 Hen. 8, c. 14), complained that the revenue was being defrauded by the practice prevailing, elsewhere than in London, of accepting at the



geldynges, coltes, mares,<sup>17</sup> oxen, steares, bullockes, kyne, calves, &

customs the declaration of the exporters as to the contents of the 'packs' of leather exported. To prevent this, the London system of sworn government packers at every port was adopted. It is possible that the Act was suggested by the fall in the export of hides shewn by the Customers' Accounts to have been taking place after Michaelmas 1535 (Schanz, ii. 116). The Act, however, failed to increase the export and perhaps led to smuggling, as the information of the Attorney-General here suggests (see *ib.*).

<sup>17</sup> According to the Venetian ambassador, Giovanni Michiel, in his report on England to the Venetian Senate some sixteen years later than this Bill, although England produced a great number of horses they 'cannot stand much work, nor are they of much account. . . . With regard to heavy horse, good for men-at-arms, the island does not produce any, except a few in Wales, and an equally small amount from the Crown studs. . . . The heavy horses, therefore, are all foreign, imported from Flanders' (State Papers, Venetian, vi. ii. 884, p. 1048, May 13, 1557). This depreciatory criticism is confirmed by the ambassador of the Archduke Ferdinand in a dispatch of July 6, 1522, who writes that 'the greater part of the servants of the Emperor have left behind them the small bad horses they had bought in England' (S.P. Spanish, ii. 443). Nevertheless they appear to have been better and cheaper than the horses of Italy, and in 1558, Alfonso, Duke of Ferrara, was instructing his ambassador to get licence to export mares from Ireland and England. In England the breeds of Staffordshire and Yorkshire then enjoyed the best reputation (S.P. Venetian, 1557-58, Append. 77, p. 1606; 87 and 88, p. 1613). The export of horses and mares was so active in the reign of Henry 7 that an Act of Parliament was passed to restrain it. This was 11 Hen. 7, c. 13 (1495): 'An Acte agaynst transportinge of Horses and Mares beyonde the Seas.' The preamble complains that the consequence of this export was a rise in the price of horseflesh. A prohibition was laid upon the export of any horse 'without the Kinges speciall licence,' or of any mare of above the value of 6s. 8d. or under three years old. In order to check false declarations of value, any mare exported without licence could be seized and 6s. 8d. tendered to the owner. The mare was then to be put up to auction by the municipal officers, and any sum paid by a purchaser in excess of 6s. 8d. was to be

divided between the king and the official who made seizure. Mares exported of less than the value of 6s. 8d. were to pay 'such custumes as hath been for mares to fore used,' that is the subsidy of 1s. in the £ *ad valorem*. In the case of mares of greater value than 6s. 8d. a special custom of 6s. 8d. was imposed. This Act proved ineffective, partly owing to the loophole left by the proviso that horses might be exported without licence 'to cary horse beyond the sea . . . for their owne uses, not intending at the tyme of the shipping of the same nor then fully purposed to sell hym,' as to which intention a sworn declaration was exacted. This appears to have been interpreted as leaving the exporter at liberty to remain on this side of the sea. A fresh 'Acte ayenst conveyance of Horses out of this Realme' (22 Hen. 8, c. 7) was passed in 1531. It complained that since the Act of 1495 'greate nombres of horses and mares have ben secretly and otherwyse conveyed out of this Realme,' so that 'the good brede of Horses of this Realme is greatly decayed, which is a nother cause of derth and scarcyte of the saide horses,' and it enacts that none should export any 'horse geldynge mare or colte' out of England or Wales without licence. It re-drafted the exemption in favour of those who were taking horses abroad for their own use, making it clear that they were themselves to accompany them. Mares of less value than 6s. 8d. might be exported without licence, subject to the conditions of the former Act. Exemptions were also made for horses to be landed at Calais for military purposes. This Act, which was to expire on the last day of the next Parliament, was continued in 1536 by 28 Hen. 8, c. 6, in 1539 by 31 Hen. 8, c. 7, and in 1542 by 33 Hen. 8, c. 17. By an Act of 1532, 'An Acte that no Englishsh man shall sell exchaunge or delyuer to be conveid into Scotland any Hors Gelding or Maere without the Kinges licence' (23 Hen. 8, c. 16), the sale of a horse to a Scot without licence was declared felony. The Letters and Papers and the Acts of the Privy Council shew that Henry 8 paid great attention to the improvement of the breed of horses. He bought horses in Flanders (L. and P. vi. 1069, &c.; A.P.C. i. 487), and established stud farms in various parts of the kingdom (L. and P. vii. 1674; A.P.C. ii. 86, 136). Acts of Parliament for improving the breed were passed in 1536 (27 Hen. 8, c. 6), in 1540 (32 Hen. 8, c. 13), and 1542 (33 Hen. 8, c. 5).



shepe<sup>18</sup> contrary to the true meanyng & intent of the lawez & statutes of this realme to the greate detryment of the comen Wealthe of the same lytle or noo thyng regardyng his highnez seid lawez statutes prohibucons & restrayntes made to the contrary therof and that the Customers Controllers serchers & other the kynges maiesties officers & mynysters for lucre affeccion & corrupcion, dyd willyngly & wyttyngly suffre & permytte such corne, graynes, billet, tymber, tanned lether, hides, horses, geldynges, coltes, oxen, steeres, bullockes, kine, calves & shepe to passe at portes & crekes<sup>19</sup> from & out of this realme & other the kynges domynyons into the partes beyonde the see, By occacon wherof such kyndes of cattell vitalles & other thynges aforeseid were lyke to be & were inhaunced to greate pryces & also lyke to be want & stant<sup>20</sup> therof for releyfe & necessarye sustenance of the kynges maiestyes owne louyng subiectes to their greate damage & detryment if remedye shuld not be spedely prouyded for the same, our seid souereign lord the kyng therfore of his most excellent goodnes hauyng specyall regarde & respecte to the aduancement of the comen Wealthe of this his realme & of other his gracys domynyons & to the releyfe & comferte of his louyng subiectes of the same by his gracys proclamacon made & ordeyned the xvj<sup>th</sup> day of Febeuary in the xxxij<sup>th</sup> yere of his reigne<sup>21</sup> by his maiestye<sup>22</sup> with aduyse of the more parte of his most honourable Counsellourz namyd in the seid Acte and by the auctorite of the same Acte dyd straytely charge & commaunde that noo person or persons of what estate degree nacyon or condicon so euer he or they shuld be, shuld from & after the seid proclamacon openly publyshed & proclaymed accordyng as it is ordeyned by the seid Acte without the kynges maiesties

<sup>18</sup> The Act of 1531, referred to in the last note (22 Hen. 8, c. 7), was, notwithstanding its title, not confined to the export of horses. Its preamble added a complaint of the high prices and scarcity of meat, which it imputed to the export of cattle, &c. Accordingly it prohibited the export of 'oxen steres bullockes calves kyne or shepe,' an enumeration which, as will be observed, is followed by the draughtsman of the text.

<sup>19</sup> A list of 'all the ports of England' at the beginning of Henry 8's reign, seventeen in number, is given (L. and P. iii. i., pp. ccccxliv, ccccxlv). This list is not, however, exhaustive, since it omits Lynn, Yarmouth, and other places. To each port were assigned a certain number of 'creeks,' or recognised places of disembarkation, also under the surveillance of the

customers and officials of the ports of which they were dependencies. For details of these see Sir Matthew Hale, 'De Portibus Maris,' printed in Hargrave's 'Collection of Tracts,' 1787.

<sup>20</sup> Sic, for 'scant.'

<sup>21</sup> 1541.

<sup>22</sup> This title, though not unknown earlier, became increasingly in vogue after the rupture of Henry 8 with the emperor, whose style it was, and was associated with the very ancient claim that the Crown of England was an 'Imperial' crown, that is, acknowledged no fealty to the emperor. In the Act of 1544, however, intituled 'The Bill for the Kinges Stile' (35 Hen. 8, c. 3), both the words 'Grace' and 'Majesty' are used, and the style there set out is declared to be 'annexed for ever to the Emperiall Crowne of this his Highnes Realme of Englonde.'

lycence vndre his greate Seale shippe or cause to be shipped at or in eny porte creke haven or water withyn any the kynges domynions eny maner of corne, grayne, meale, billett, tymbre, tanned lether or hides to thentent to be carryed or transported into eny of the partes beyonde the see apon payne to lose & forfeyte aswell the seid Corne grayne meale, billett, tymbre, tanned lether & hides as all other their goodes & cattelles and also to haue imprysonement at the kynges maiesties wyll & pleasure and that noo shipman nor maryner shuld take or receyue into their shippes, crayes,<sup>23</sup> bottles<sup>24</sup> or vesselles eny maner corne, grayne, meale, billett, tymbre, tanned lether or hides to thentent to carry & transporte the same into eny of the partes beyonde the See apon payne of forfeiture of the seid corne, grayne, meale, billett, tymbre, tanned lether & hides so shipped & also of their seid shippes, crayes, bottles & vesselles & all other the goodes & cattelles of the seid shipmen & maryners being in the seid shippes, crayes, bottles or vesseles as by the same proclamacon emonges other thynges theyrn conteyned more pleyntly is shewed & may appere, Which seid proclamacon so made & sett furthe as is aforeseid was afterward that is to wytt the xxvij<sup>th</sup> day of Marche in the seid xxxij<sup>th</sup> yere of our seid souereign lord the kynges reigne<sup>25</sup> at the porte & towne of Lynne otherwyse callyd Kynges Lynne<sup>26</sup> in the County of Norffolk at the porte of Dasyngham<sup>27</sup> withyn the seid county & in dyuerse other cities & Townes withyn this realme by the commaundement of our seid souereign lord the kyng pleyntly & openly publysshed proclaymed declared & set furthe accordyng to the tenour & purporte of the same proclamacon. So it is my singuler good lordes that one Robert Danby of Walsyngham in the seid county of Norffolk maryner noo thyng ponderyng or regardyng the seid Acte & proclamacon nor the danger & penalytes therof but in contempte thereof after the seid proclamacon in forme aforeseid made & proclaymed that is to wyt the xx<sup>th</sup> day of Septembre in the xxxij<sup>th</sup> yere of our seid souereign lord the kynges reigne<sup>28</sup> at the porte haven or creke callyd Dasyngham haven in the seid county of Norffolk without

<sup>23</sup> Craye, crayer, a small trading vessel, a trading sloop. See J. A. H. Murray, 'Engl. Dict.' s.v.

<sup>24</sup> Boats.

<sup>25</sup> 1541.

<sup>26</sup> Its designation, instead of Lynn Episcopi, or Bishop's Lynn, became Lynn Regis or King's Lynn upon its transfer to the Crown in 1536 by the Act 27 Hen. 8, c. 45, 'An Acte concerning the assuraunce of all the Temporaltyes belonging unto the

Bisshoppriche of Norwiche unto the Kinges Highnes and his Heires.'

<sup>27</sup> Dersingham in Domesday; as also the modern spelling; a village eight and three-quarter miles N.N.E. of Lynn. It was properly, as it is presently called, a 'creek' of the port of Lynn. The creek on the Ordnance Map running from the sea to the W. of Dersingham is there named Boathouse Creek.

<sup>28</sup> 1541.

our seid souereign lord the kynges lycence vndre his great seale did shippe & cause to be shipped in a shippe or vessell there then beyng & lyeng apou the water comenly called <sup>29</sup> wherof one Hughe Melyson of Dasyngham was then owner & possessour fourescore quarters of malte to be from the same haven or creke conveyed in the same shippe or vessell vnto the partes beyonde the see in contempte of our seid souereign lord & ageynst the forme & prouysion of the seid proclamacon, and moreouer my synguler good lordes one Thomas Toly of Burston in the seid county of Norffolk husbondman did in like maner & forme after the seid proclamacon in forme aforeseid made & proclaymed that is to wytt the thirde day of Octobre in the seid xxxiiij<sup>th</sup> yere of our seid souereign lord the kynges reigne<sup>30</sup> at a haven in the seid county of Norffolk comenly callyd Blakeney haven<sup>31</sup> beyng nere vnto the towne of Holte in the seid county of Norffolk where the seid proclamacon was openly publysshed proclaymed & redde the seid xxviij day of Marche dyd lykewyse without our seid souereign lord the kynges lycence vndre his greate seale shippe & cause to be shipped in a shippe or vessell there then beyng apou the water comenly callyd the Anne of Saltehowse<sup>32</sup> wherof one John Bartholomewe maryner was then owner & possessour xxv quarters of wheate & ten score & twelve quarters of malte to be fromthens conveyed in the same shippe into the partes beyonde the see in contempte of our seid souereign lord & ageynst the forme & prouysion of the seid proclamacon, and afterward the same xxv quarters of wheate & ten score & twelve quarters of malte were by one Thomas Bockyng then beyng maister of the seid shippe by the commaundement of the seid John Bartholomewe contrary to the seid proclamacon conveyed in the same shippe into the seid partes beyonde the see that is to wyt into Flaunders & ther sold by the seid Thomas Bockyng by thassent & agreament of the seid John Bartholomewe. It may therefore please your good lordships the premyssez considered to cause the seid Robert Danby, Hughe Melyson, Thomas Toly, John Bartholomewe & Thomas Bockyng & euery of them by vertue of our seid souereign lord the kynges writtes of Subpena proclamacon<sup>33</sup> or otherwyse to appere before your lordships

<sup>29</sup> Blank in MS.

<sup>30</sup> 1541.

<sup>31</sup> Blakeney is  $5\frac{1}{4}$  miles N.W. of Holt, and Holt  $9\frac{1}{2}$  miles S.E. of Cromer, the three places forming a triangle of which the sea coast forms the base, with its extremities at Cromer on the E. and Blakeney on the W., Holt being inland.

<sup>32</sup> Salthouse is a village near the coast three miles E. of Blakeney.

<sup>33</sup> This refers to the process formerly legalized by the 31 Hen. 6, c. 2 (1453), the Act upon the model of which the statute of 1487 'Pro Camera Stellata' was based. It was provided by the earlier Act that in default of appearance when summoned by a writ or Letters of Privy Seal, the Chancellor should be authorized 'to cause a Writ or Writs of Proclamation to be directed to the Sheriff of the County.' The sheriff



at a certen daye & place & apon such peynes as by your lordshipps shall be thought mete & convenyent then & there to make answere to the premyssez and further to be ordred theryn as shall accorde with right & good conseyence.

(*Indorsed*)

An Inform(acion)<sup>34</sup> (put)  
in by the kynges (generall attourney)<sup>34</sup>  
again Danby & (others).

(*In modern hand*) Attorney General  
*v.*  
Danby & al.

- B. The answer of Thomas Tolye to the byll of informacon exhibyte ageynst him by <sup>1</sup>William Whorwod the kynges generall attourney.<sup>1</sup>

The saide Thomas Tolye for answer to the said byll saithe that he aboute Mighelmas last past dyd lade into a shipp or vassell callyd the Anne of Saltehowse of his owne proper goodes the nomeber of fyfthe come<sup>2</sup> of wheate and ten score xiiij quarters of malte to be conveyed frome Blackney haven at Cleye in the countie of Norffolk<sup>3</sup> wher the same was so ladyd vnto the porte of Rye in the county of Kent,<sup>4</sup> at the wiche porte the saide Thomas gave in commaundymment vnto Thomas Bockyng maister of the same shipp to put to sale for him all his sayde wheate and malte ther yf the price were there good, orels that he shulde convey the same farther to Southampton or to some porte in the West Countrey there to make Sale thereof wher he thoughte best, and therupon the saide bocking departyd with his saide shippe and the corne of the saide defendauntes from

was therefore bound to make open proclamation in the shire-town of the county, and also the sheriffs of London in London, on three several days, that the person summoned appear before the Council or before the Chancellor within a month. Special provisions were made for the contumacy of a peer. In the case of other persons, the punishment was a fine to be imposed by the Chief Justices of the King's Bench and Common Pleas. Persons without means were to be put out of the king's protection. By the Act of 1539 (31 Hen. 8, c. 8, § 5) the Lord Chancellor and Lord Privy Seal were each authorized, with the assent of the Lord Chamberlain, Lord President, Lord Admiral and two Chief Justices, to issue a proclama-

tion for the defendant's appearance, and in default 'an other proclamacion upon alegeancie of the same offender.'

<sup>34</sup> MS. torn.

<sup>1-1</sup> In another and more formal law hand.

<sup>2</sup> 'Coomb, comb: a dry measure of capacity equal to four bushels or half a quarter' (J. A. H. Murray, 'Eng. Dict.' s.v.). Cf. p. 179, n. 12.

<sup>3</sup> Cley-next-the-Sea, four miles N.N.W. of Holt; a watering-place and small creek in Blakeney harbour (J. A. Sharp, 'New Gazetteer' [1852], i. 436).

<sup>4</sup> A mistake for Sussex. There does not appear to be any place of the name in Kent. Rye is very near the boundary;

the same Blackeney haven, and so contynewing his course arryved with the same at Sluce in Flaunders in the parties of beyonde he see, the saide defendaunt not consenttyng or privy therto nor having any other knoledge but that he had conveyed the same to Rye or Southampton according to the mynde and will of the saide deffendaunt<sup>5</sup> Without that that the seid Thomas Toly did shippe or cause to be shipped in the seid shippe or vessell callyd the Anne of Saltehowse the said corne or eny parcell therof to thentent to be conveyed into the partes beyonde the see or for or to eny other intent or purpose then is before in this aunswere declared & allegged or that the seid corne or eny parcell therof by the commaundement of the said Thomas Toly were conveyed into the partes beyonde the see in maner & forme as by the seid byll is supposed. All which maters &c.<sup>5</sup>

*(Indorsed in modern hand)* Attorney General

v

Toley.

C. The replycacon of William Whorwod the kynges generall Attorney to thanswere of Thomas Toly.

The seid William Whorwod for & on the behalffe of the kyngse highnes seyeth and aueryth in all & euery thyng as he in his seid byll of compleynt hath before seyed & allegged & shalbe at all tymes redy to auerre and proue the same to be true accordyng to theeffecte therof. Without that that the seid Corne mencioned in the seid byll was shipped in the seid shippe or vessell to thentent to be conveyed vnto the said porte of Rye or to eny other place then into the partes beyonde the see or that the seid Toly did gyue eny such commaundement to the seid Thomas Bockyng concernyng the sale or conveyance of the seid corne as by the seid answere is supposed or that the seid corne was conveyed into the said partes of Flaunders without the consent & knowlege of the seid Toly or ageynst his wyll in maner & forme as by the seid answere is vntruly allegged. And without that that eny other thyng in the seid answere conteyned materiall to be replied vnto & not before confessed & aduoided or trauersed is true. All which maters the said William Whorwod is redy to proue as this honourable Court wyll award and prayeth as he hath before prayed.

there were at all times intimate trading relations between Rye and the ports of the east coast, including a chronic controversy

with Yarmouth.

<sup>5-5</sup> In the same hand as 1-1.

1548 RADCLYFFE, BRISTOWE, PARISHIONERS OF, AND OTHERS v.  
THE MAYOR OF BRISTOWE.

A. To the King our Soueraigne lorde and  
to the lordes of his most honorable  
counsell.<sup>1</sup>

In most humble wise shewith vnto your highnes your powere  
Subyectes and dayly oratours the parishyoners of the parryshe of our  
laydy of Radclyffe<sup>2</sup> Seynt Thomas the Appostell<sup>3</sup> the parryshe of the  
holy Crosse in Temple fee<sup>4</sup> in your Cyte of Bristowe with the assent  
and consent of the most part of your power Subyectes and Comynalte<sup>5</sup>  
of your seid Cyte of Bristowe whos names hereafter foloweth vnder  
written That wher your highnes by your Gracyous letters pattentes  
sealed vnder your great seale redy to be shewed in Consyderacyon of  
and for the Comen welth of all your seid Subiectes as well within your  
seid Cyte as eles wher your power Comynalte commynge and resortinge

<sup>1</sup> S.C.P. Hen. 8, Bundle xxxiii. No. 51. Introd. p. cxxi.

<sup>2</sup> Redcliff was originally a village on the south bank of the Avon, opposite Bristol, in the manor of Bedminster, west of Temple-Fee. This part of the manor, which formed part of the possessions of Robert, earl of Gloucester, in the time of Henry 1, 'included the marshy land between the two reaches of the Avon, together with the red cliff and its immediate neighbourhood.' It was sold by Earl Robert to Robert FitzHarding, and, under the lords of Berkeley, received the same privileges as Bristol. It grew so fast in wealth that in 1210 Redcliff paid 1000 marks, the same amount as Bristol, to the aid levied by King John. John's Charter of 1188, granted when count of Mortain, included Redcliff in Bristol, though it was outside the walls. A long conflict of jurisdiction then ensued between the lords of Berkeley and the municipality of Bristol. The practical union of Redcliff with Bristol was effected by the construction of a stone bridge over the Avon in 1247. By the Charter of 1373, which made Bristol a county, Redcliff and the Temple-Fee were included as parts of the town (W. Hunt, Bristol, 'Historic Towns' [1895], 39-41, 47, 61-63; W. Barrett, 'Hist. of Bristol' [1789], p. 73).

The Church of St. Mary Redcliff is said to have originally been built in the year 789 (Barrett, p. 566). In 1376 William Canynges, six times mayor of Bristol, rebuilt the body of the church (ib. p. 569). This having been for the most part destroyed by the fall of the spire in 1446, his grandson, another William Canynges, rebuilt

most of it, and this is the existing church. It was declared by Queen Elizabeth to be 'the fairest, the goodliest, and most famous parish church in England' (Hunt, p. 106).

<sup>3</sup> This church, on the same side of the Avon as St. Mary Redcliff, is marked in the map of Bristol in 1480, in Dr. Hunt's frontispiece. It was originally dedicated to St. Thomas the Martyr, that is, Thomas à Becket. On November 16, 1538, a royal proclamation ordered that 'St. Thomas of Canterbury should not be esteemed nor called a saint; that all images and pictures of him should be destroyed, the festival in his honour be abolished, and his name and remembrance be erased out of all books under pain of His Majesty's indignation and imprisonment at his Grace's pleasure.' The proclamation, which is in the possession of the Society of Antiquaries, strangely omits to make any provision for changing the dedication of churches. This, however, the parishioners evidently did, since the omission was clearly an oversight. As to the original dedication see J. F. Nicholls and J. Taylor, 'Bristol Past and Present' (1881), ii. 230; Barrett, p. 557.

<sup>4</sup> The eastern half of the district described above (n. 2) was 'given by Earl Robert (of Gloucester) to the Knights Templars, and was therefore called Temple Fee; it extended over the whole of the present parish of Temple. The church of the parish that was thus formed was dedicated to the Holy Cross of the Temple' (Hunt, p. 39).

<sup>5</sup> See Brystowe, Sheriff of, v. Mayor of, A, p. 143, n. 4.



to your seid Cyte haue granted vnto the Mayre and Comynalte of your seid Cyte at the humble suet of the seid parrysshioners of the parryshe of Redclyffe by the assent and Consent of the seid Mayre then beinge burgeses and Comynalte of the same at the Costes and Charges of the seid parissheoners of Redclyff a fayre to be kept and holden yerely in the seid parryshe of Redclyff at the feast of the purifycacyon of our lady<sup>6</sup> And so to Contynewe viij dayes then next ensuyng<sup>7</sup> whych peassably hath contynued the space of xiiij yeres to the great Avancement Comodytes and profetes as well to all your seid Subiectes wythin your seid Cyte as eles where in many other Cytes townes and boroghes commynge and resortinge to your seid Cyte of Bristowe apparantly to be proved. So hit is graceus lord and the lordes of your honorable Consell that oon Henry White nowe mayre of your seid Cyte of Bristow<sup>8</sup> by his synyster Consell hath of late that is to sey at the feast of the purifycacyon of our lady last past not only lette<sup>9</sup> vexe and troble your powere Subiectes commynge and resortinge to the seid fayre with ther ware but also without grounde and good consyderacyon of his malyceus and peruerse mynde hath procleymed the seid fayre to be frustrate and voyed and not only that but also hath stopped a great nvmber of people commynge and resortinge to the fayre out of dyuers partes of this your realme to the seid fayre and ther wold not permytte and suffer them nor none of them to by nor sell any ware so the same ware remaynyng upon the handes vnsold to the great hynderance losses and dammages as well to your seid Subiectes wythin your seid Cyte of Bristowe as eles wher in many and dyuers other places by force whereof as well a great Number of your grace houses and tenementes in your seid Cyte as also to dyuers other of your seid Subiectes houses and tenementes

<sup>6</sup> February 2.

<sup>7</sup> The charter was granted on September 20, 21 Henry 8 (1529). It was, as a consequence of this complaint, vacated on surrender by John Willy, attorney of the Mayor and Corporation of Bristol, June 10, 36 Henry 8 (1544) (L. and P. Hen. 8, iv. 5978 [20]).

<sup>8</sup> In Barrett's list (p. 684) Henry White was mayor in 1542-43, election to the office being on September 15 and admission September 29. The two calendars printed in the Bristol and Gloucestershire 'Archæological Transactions' assign his mayoralty to 1543-44, but it has already been shewn that neither is trustworthy (see Brystowe, Sheriff v. Mayor of, A, p. 142, n. 3). Of these two calendars that in the Bristol Museum has a note by Andrew Hooke, its compiler in

1740, sub anno 1543: 'Henry White died, and John Keep succeeded.' The second calendar, known as the Fox MS., gives, sub anno 1543: 'Henry Wright, John Keep, Haberd[asher].' It may be taken then that Henry White died towards the end of his mayoralty, that is, after May 12 (cf. n. 14) and before September 29, 1543. This inference harmonizes with the complaint that 'of late,' namely, on February 2, he had thrown obstacles in the way of the fair. Henry White was a merchant who on November 19 (16 Hen. 8 [1524]) obtained from the Crown a lease of the prise of wines within the port of Bristol for twenty-one years, at 4*l.* rent (L. and P. Hen. 8, xviii. i. 623, 20). The will of Henry White of St. Nicholas, Bristol, was proved in 1543 (J. C. C. Smith, 'Index of Canterbury Wills').

<sup>9</sup> Hinder.

within the same Cyte belonginge lykely to fallen downe in decay<sup>10</sup> and also creftes men of ther handy occupacyon for lake of lyvyng lykely to be vndon for euer oon lesse your highnes and your honorable Consell the premyssis tenderly Consydered of your abundant grace by the due order of your lawes to<sup>11</sup> Commaunde the seid Mayre peasably to permytte and suffer your seid powere Subiectes to haue occupye and enyoe<sup>12</sup> the seid fayre without lett or interuptyon according to your seid gracyous letters pattentes to thentent and for the Comen welth of your seid powere Subiectes and in so doinge they shalbe the better able as well yerly to pay to your grace your rentes for ther tenvers<sup>13</sup> And also the Subsydeys and xv<sup>th</sup><sup>14</sup> accordinge to ther duty with ther daylye prayers to allmyghty god for the preseruacyon of your highnes and your honorable Consell. And your seid oratours and Subiectes to all and synguler the premyssis befor rehersed to be true and to be Iustifyed as well the seid parysshioners of Redclyff hath put ther vsuall seale of the seid Church of Redclyff as also the seuerall seales of the parysshioners of the paryshe of Seynt Thomas the Apostell with the parysshioners of the paryshe of the holy Crosse aforseid with dyuers other of the Cytezyns of the seid Cyte of Bristowe to this petycyon and testymonyall hath put ther seales the xxiiij<sup>th</sup> day of May in the xxxv yeres of your most noble reigne.<sup>15</sup>

The names of the parisschoners of Redclyf  
and other the Comynalte.<sup>16</sup>

Richard Wynnowe  
John Monday  
Thomas hopkyns

Robert Grigge  
Thomas Jonys  
Hugh Williams

<sup>10</sup> On the condition of Bristol in 1540 see *Brystowe, Sheriff v. Mayor of, A*, p. 146, n. 19.

<sup>11</sup> Sic, for 'do.' Cf. p. 250, n. 15.

<sup>12</sup> Enjoy.

<sup>13</sup> Tenures.

<sup>14</sup> This refers first to 'the Bill for the Subsydy' (32 Hen. 8, c. 50) granted on May 8, 1540. By this four fifteenths and tenths were payable in four years; the last instalment to be paid into the Exchequer on February 4, 1543. But the use of the plural 'subsydeys' must include a further reference to the subsidy granted early in 1543, the second session of the Parliament returned on January 16, 1542, opening on January 22, 1543, and closing on May 12 following. This grant makes no mention of any 'fifteenth' which is why the reference to a 'xvth' is in the singular, as applying to the Act of 1540 only. 'The Acte for the Subsidie of the Temporality' (34 & 35

Hen. 8, c. 27) enacted a graduated income tax, and was levied for the expenses of the expedition to France in 1544.

<sup>15</sup> 1543.

<sup>16</sup> The men's names which follow represent, according to the bill of complaint, the three parishes and 'the most part of your power subiectes and comynalte' of Bristol. They number 629, and upon the normal estimate of five persons to a household, they represent 3145 persons—men, women, and children. It is possible to arrive at an approximate computation of the proportion of parishioners among them to the commons of Bristol generally, it being premised that the maintenance of the fair would be universally considered by the three petitioning parishes advantageous to their interests. In the Chantry Certificates of 1548 (*Bristol and Gloucestershire Arch. Soc. 'Transactions,'* viii. 232–50) there are returns of the numbers of

Morgan Jonys	Richard Thyngwall
John Harrys	William Wymler
William Cause	Peter Cheryte
John Wade	Thomas Aligh
John Lower	John Gyllowe
Hunfrey Dyer	Thomas Monday
Thomas Jenyns	Harry Catall
Robert Sufford	Henry Mower
William Wilkyns	John Salisbury
Richard Olyuer	Peter Pope
William Buttler	Thomas Griffith
Richard Walshe	William Chamber
Thomas Pople	John Bonwey
John Jenettes	Nycholas Stronge
Thomas Rawlyns	John Longe
Thomas Bartley	William Cradok
John Mayse	Thomas Basten
Henry Whether	Edmonde Basten
William Willybe	Michael Atwater
William Colman	John Hert
Edward Thomas	John Morys
John Somer	John Walshe
Roger Rawlyns	Teke Plowman
Jamys Austyn	Thomas Wetherley
William Denys	Richard Whitte

'howseling people' in each of the parishes of Bristol. The parish of St. Mary Redeliff is credited with 600, St. Thomas's with 600, and that of Holy Cross with 480; total 1680. Applying the normal estimate above mentioned, the male signatories belonging to the three parishes taken together would, as a maximum, be represented by a fifth of this total, that is, they would number 336. The remaining 293 signatures would represent the adult male commonalty of Bristol, and a total population of 1465 persons—men, women, and children. Now there were, as may be seen by the map of Bristol in 1480, which forms the frontispiece to Dr. Hunt's 'Bristol,' twenty parish churches in Bristol. The returns of the Chantry Commissioners of 1548 give the estimated population of 'howseling people' in fifteen of these parishes. They number in all 5976. It is needless to attempt any estimate of the population of the five parishes for which none is furnished by the commissioners. After deduction of

the 1680 persons returned as belonging to the three petitioning parishes, the remainder, 4296, represents the men, women, and children of the remaining twelve parishes. If we apply to these the norm of one adult male in five, the adult male commonalty of the twelve parishes outside the three petitioning parishes would number 859. It is clear on the face of it, therefore, that the statement that the 293 signatories, more or less, outside those parishes represented 'the most part' of the citizens of Bristol is a gross exaggeration, which would be the greater were the statistics available of the population of the five parishes as to which we have no returns. That the government of Henry 8 came to the same conclusion is evident from the fact that it revoked the charter for the fair. And the repetition of certain names with variations in spelling suggests the suspicion that, as in modern petitions, some of the signatories multiplied themselves.



Roger Pykerynge	Thomas Blake
Thomas Cutler	Thomas hall
Richard Burges	Cormo Whitt
John Sprynge	Davy Lenard
Thomas Gardener	John Asshawe
John Smythe	Vidy Van
William Parker	Edmonde Mayse
Henry Mill	John Arthure
William Nasshe	Edward Walker
William Dowell	John Coke
Thomas Syndrell	Morgan Jonys
Thomas Rutter	John Weste
Thomas Hansom	John Beche
John Bailly	Thomas Gybbes
Alexander Wilston	John Evanes
William Body	George Myllett
Robert Waterman	Richard Nayller
William Cosyn	John Goodwyn
Robert Huntynghon	Coly Serche
Humfrey Dowtynge	Thomas Sulby
William On	Richard hethe
John Dunkys	William Gyrsye
Perkyn Philipps	William Tyrry
Richard Wykyn	Tege Whitte
Richard Davys	Fraunces Newman
Thomas Dunpayn	John Philipps
Thomas Tompsom	Mylys hayn
William Raulyns	Thoma Tanner
William Payn	William Preston
Hughe Pryse	Lawrence Merchant
Richard Morgan	William Volan
William Byrde	John Davys
William Brandon	Hugh Stone
Robert Sutton	William Pyttcom
Richard Farr	Walter Keddey
John Golde	John Davys
Thomas hardwod	Michell Water
John Bartlet	Henry Millys
Thomas Bryfe	John Buckeiond
Thomas Hoper	Henry Whether
John Pyson	Thomas Peperton

Edward Basten	Robert Davys
John Basten	John Frances
Richard Whitte	John Bawme
William Woddey	Mylis Cutbert
John Mylward	Edward horswall
John Davys	William Seuande
John Wether	Roger Badger
Thomas Buterell	Thomas Bower
Richard Morgan	William Dene
William Raulyns	Hugh Griffyn
Morgan Jonys	William Leeke
John Badger	John Richard weuer
George Wodbawe	Thomas Gybbys
John Cawkes	John Bonwen
Robert Lower	Henry Vxvall
Edward Marche	Gregory Williams
John Williams	Richard Edmondes
John Lowe	William Wymbler
Henry Blake	Richard Weshe
John Turney	John Ashlyn
William Bedowe	John Heke
Robert Edweyn	Thomas Raulyns
Richard Marche	Thomas Williams
Nicholas Walker	Maurys haies
William Hobbes	Pattryke Brodwey
William Curtes	John Pavy
Thomas Backewell	John Willys
Harry Longe	John Morgan
John Godmyn	William Lower
Richard Norkatt	John Davy
John Sagher	Robert Gough
William Reynald	William Ryall
John Brokman	Cutberd Dorne
William Comer	Harre Jones
Roger Dyer	Robert hollsom
William Grene	John beste
William Penryce	William Jhamys
Alexander Golsmythe	Alexander Willson
Davy Denys	William Prove
William Pawunton	Gytto Robyns
William Dene	Vynsent Payne

Walter Basset  
 Thomas funder  
 John Somer  
 Thomas Roche  
 John Edwyn  
 John Williams  
 John Apryce  
 Morgan Davys  
 John Golsmyth  
 Thomas Durban  
 Symon Magofe  
 Dauy Cradoke  
 Richard Meredyth  
 Harre Edward  
 Jhenkyn Dye  
 William Collyns  
 Dauy Hewys  
 William Scherman  
 William Brodeschaye  
 William Morgan  
 Nicholas Cox  
 John Euanse  
 John Deryke  
 John Lane  
 Thomas Rose  
 Thomas hayward  
 Harre Holbage  
 Thomas Lasynbe  
 Sawneder pynner  
 Harre Willys  
 Thomas Typper  
 Water baker  
 Avrell Grene  
 Richard Welles  
 William Shyrney  
 Thomas Asheton  
 Fooke William  
 Thomas Hedde  
 John Apere  
 Thomas Tovyne  
 Edward foller

Thomas Gardenar  
 John Jones  
 Richard Taillour  
 William Hawekyns  
 Mathew Mason  
 Phelyp Collman  
 John Toker  
 John Williamys  
 Ryse William  
 Peter ostellar  
 Thomas morfelld  
 Robert Symonys  
 Edmund Roche  
 John Allday  
 Sander Philkyns  
 Richard bratt  
 Thomas howell  
 Richard houseman  
 William Williams  
 John Lether  
 William Hewardyn  
 Thomas Dolle  
 George Grey  
 William Herwarden  
 Richard Pecoke  
 William Heynes  
 Hugh Cutler  
 Thomas Brigham  
 Thomas Wynter  
 Thomas Lewes  
 John Ellys  
 William Galle  
 Thomas Ryne  
 William Davson  
 John Williams  
 John Baker  
 John Rose  
 Thomas Tayllor  
 Denys Dovne  
 John Nottes  
 Thirrsten bony



Richard Wakefelld	William boyer
Robert Allcoke	John Wadam
William Dauys	William Meryk
Thomas Clarke	John floyd
Thomas Lentto	Thomas Yatton
Richard Strengge	John Larcombe
Phelyp Fryer	Ryse Karuer
William harvyne	Robert Ruffyn
John Smyth	Robert White
Nycholas Jerpe	Thomas rutter
John Adentton	John Hyot
John Denys	John Jamys
William payne	Robert gardener
Nicholas Garratt	Thomas Waterman
Thomas Amendhouse	William Tyllet
Water Hayman	Thomas bekett
Nicholas Caruer	Stephen blakford
Jamys Dyamon	Roger Threder
Thomas broune	John Gorre
Hugh Jones	Robert Williams
Richard begge	William Pynkeroge
William Walter	Peter Levett
Robert bowyer	William Semth
Richard Peryman	John Bawedon
William Nashe	William Cartwritt
William Warman	George Menstrell
Robert seed	Richard Dauys
John Sydwell	William Jones
John Lynell	Teke Horrold
Morys Powell	Patryke Rede
Dauy Dymmoke	Richard overton
Walter Harolde	Thomas Watkyns
William Harolde	Nicholas Carvar
Nicholas Pummerey	Nicholas hawarden
William Rydar	William Thomas
Roger Burton	Rollond Smyth
William Gybbys	Harre Wydon
John Catwell	Richard pere
Thomas Gresytes	William Levke
Phelyp William	Thomas gayger
Edward hynd	Thomas Camdyn

John Alondon  
 Richard Welles  
 John pran  
 Robert Cattell  
 William Lyne  
 Thomas Typper  
 Thomas Criklade  
 John Gane  
 Phylp Yonge  
 Jamys Nasshe  
 Richard Hall  
 Cornell Androwe  
 Denys fyan  
 Daut Jones  
 William brokhous  
 Thomas hillar  
 Thomas Jamys  
 John Ded  
 Nycholas Euans  
 Richard Russell  
 Daut Williams  
 John Lowghan  
 John Evans  
 Thomas buttlar  
 Richard Cherlond  
 John varnyster  
 William Morgan  
 John Clarke  
 Thomas Cornyshe  
 Harre Willys  
 Phelyp Rogers  
 Roger Knyght  
 Greffeth Sawyer  
 Thomas Randell  
 John Baddram  
 Thomas Olyuer  
 Thomas Sonnys  
 Daut baker  
 Robert Suffolke  
 Thomas Sanders  
 Thomas Grigge

Raffe Whilloke  
 John bulton  
 Richard Salysbure  
 Gregory Williams  
 Richard howper  
 John Williams  
 John Towe  
 John fawkenor  
 Sander powell  
 Richard goodyer  
 Nycholas Osbourne  
 Thomas Bolton  
 William floyde  
 John Nycholson  
 William Jenys  
 Nycholas harrys  
 Thomas Williams  
 John Sweluerton  
 William Whettlay  
 Richard Countes  
 Howell Baker  
 William hart  
 Thomas Hennyng  
 Richard Dauts  
 John Bawden  
 Thomas Waltes  
 William Lobb  
 Daut Mathew  
 John Apery  
 Larens nashe  
 Edmond Cogley  
 William Pottell  
 John Mason  
 George Walger  
 Greffyth Tayllour  
 Thomas Decon  
 Richard Weston  
 Richard Knygh  
 Stephin Egyner  
 Harry Sympkin  
 William Whetley

Thomas hart	Jamys Grygge
Richard Kyngman	John Lyance
Hugh bagger	Richard Typper
Thomas Wates	Thomas benshe
John Spart	John blomke
John Collyer	Jamys Symons
John morgan	John Reve
William estgat	John Criklade
Thomas Jonys	John Barne
Symon Jonys	Harre Dauys
Thomas Taillour	Richard Edmondes
Thomas hopkyns	Evan Tukker
Richard More	Edmund Reve
John Thomas glasyer	Cristoffer Garbett
Morgan Davy	Thomas Cockes
Pyers Coper	William Cockes
William Barrey	Stephin Garbett
Richard Andros	John Pyrrye
Mathewe Davy	John Marcum
Davy lewes	John Evanes
John Lowghter	Thomas Neyster
John hughes	William Lany
John Stephyns	Thomas Webb
William Gybbes	Robert Ruffyn
Morgan Thomas	John Vuell
Richard Hurlefrenshe	John Lyons
Crist Appowell	John White
Raffe Stringer	John Nayler
John Cult	Water Dauys
Awrell Grene	Greuyth Noryse
Thomas Typper	Lewes Karuer
Harry Lobden	Richard White
Richard Evans	Richard Gorney
Richard Rose	John Shomaker
William Sutton	William Kery
Dauy morse	John Wodwall
John Stasey	John Wever
John Welles	William Haukyns
Lewes Richardes	Richard Nasshe
Jamys bayley	John Waren
William Appowell	Nycolas Herwarden
John barrat	William Stephyns



Thomas Longe  
 Richard Tourtys  
 John Springe  
 Henry Waren  
 Robert Sefke  
 Thomas buttler  
 William pynkeley  
 Thomas Tapley  
 Edmond Rogers  
 Thomas More  
 Roger Rymer  
 Edward Looson  
 Water Cabull  
 John Williams  
 Thomas Skales  
 Thomas Predey  
 Robert bonnor  
 John payne  
 John phyllypes  
 John Larke  
 Leonard hankok  
 William pottell  
 Thomas Gyllaws  
 William body  
 Alexander palmer  
 Water appowell  
 John Magett  
 Richard bluett  
 Thomas makefeld  
 Harre Ryde  
 Thomas Jones  
 Edmund Jones  
 John Jones  
 Cornell Hay  
 John Power  
 Thomas Englund  
 Denys carver  
 John Honey  
 Thomas Morgan  
 Thomas Williams

Richard apowell  
 John Pery  
 William Ballonde  
 John pallmer  
 William Wales  
 Richard Mellen  
 Denys fowler  
 John blacknech  
 Thomas Tampuson  
 William Nayler  
 John brayn  
 Raffe banaster  
 Roger Rawlyns  
 John Abecke  
 Harre Abecke  
 Dauby Gayn  
 William chamer  
 John bense  
 John Clerke  
 John guyne  
 John clerke  
 John stone  
 Nycholas Nayler  
 William William  
 Thomas Jones  
 Robert Worley  
 Thomas Davys  
 John Ylkyns  
 Thomas Dollyn  
 John Faukener  
 Robert Worlyn  
 Christofer Josam  
 John Lether  
 John Gory  
 William Key  
 Philip Pyne  
 Philipe furlonge  
 Edward Ellys  
 Richard Farre

(Indorsed) The names of the Cominalte of  
 Brystowe.

B. Interrogatores<sup>1</sup> in the behalff off the mayer and comnalte of the Cyte & Towne off Bristoll.

1544 Imprimis iff Hugh Yong Gentilman decessid<sup>2</sup> made sute vnto John Shipman decessid being maire of the Towne of Bristowe<sup>3</sup> too obteyn and gete a Fayer to be grauntyd vnto the mayer and comynalte off Bristowe & to ther Successours, and iff he dide howe many of the Councell of the same Towne were wylling or dide knowe off any covenantes or agrementes that was made writen & sealed with the comin Seale of the same towne whiche covenantes were made betwene the mayer & comynalte of the same Towne Hugh Yong Thomas Wyllyams Thomas Gybbys & William Wymbler.

Item iff apoun the seid agrementes & covenantes that then iff itt were then resitid & spokyn by the councell of the said Towne or of any of them or the most part off them that iff the Fayer were obteyned & gotten vnto the mayer & comynalte of Bristowe that then the mayer & comynalte shulde grante the same Fayer with dyuerse costomez Tolles & other thinges to the same Fayer belongyng or apperteynyng vnto Richard Bromffylde Clerke master of seynt Jonys<sup>4</sup> Edward Powell clerke<sup>5</sup> & John Craggs clerke vicar off Redclyff<sup>6</sup>

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 86. The answer, replication and rejoinder have not been found.

<sup>2</sup> Hugh Yong, or Yonge, of the parish of St. Mary Redcliff, died January 7, 1534. By his will, dated December 30, 1533, he desired to be buried in the Church of St. Mary. He left a widow, Alice, and a son, John, born in 1520, who was knighted by Queen Elizabeth when entertained by him at his house in Bristol (Bristol and Gloucestershire Arch. Soc. 'Trans.' xv. 232-37).

<sup>3</sup> According to Barrett's 'Calendar' (p. 684), John Shipman was mayor in 1529-30. This agrees with the Calendar known as the Fox MS.; but according to the MS. in the Bristol Museum, his mayoralty was 1530-31 (Bristol and Gloucestershire Archaeological Society, xix. pp. 130, 131). Reasons have been given in the case of the Sheriff v. the Mayor of Bristol, p. 142, n. 3, for the belief that the most trustworthy of these lists is that published by Barrett.

<sup>4</sup> 'The chief which we know of this Hospital is from the Founder's Charter. John, Earl of Morton (Mortain), afterward King of England, gave a croft without Lacford Gate, upon the road to Bath, to certain poor lepers, whereupon was built

an Hospital to the honour of St. John Baptist. Dr. Hutton, from the Register of Wells, says that in 1437 it was in the patronage of the Mayor and Commonalty of Bristol' (Dugdale, 'Monast.' [ed. 1846], vi. ii. 670). It appears to have been converted from a hospital for lepers into a house of brothers and sisters of the order of St. Augustine. In the 'Little Red Book,' ii. 234, occurs the following note: 'Mem: Johannes Farceyn alias Farcey fuit Fundator Domus Sancti Johannis Baptistae in Redclyff pitte.' I can find no such name in the Bristol records. Barrett gives a list of masters. It ends as follows: '1542. Richard Bromefield surrendered this house &c. to King Henry 8's commissioners the 7th of March in the 35th of that king's reign (1544), after above 364 years possession by the friers' (p. 595). The estate belonging to this house appears to have grown timber good for shipbuilding. Sec L. and P. Hen. 8, ix. 1025.

<sup>5</sup> In the list of vicars of St. Mary Redcliff (Barrett, p. 588), Edward Powell, D.D., occurs sub anno 1508. He was born in Wales about 1478, was educated at Oxford, and was elected a Fellow of Oriol in 1495. He proceeded to the degree of D.D. on June 26, 1506. He was in 1501

& too ther Successours, vpon condicion that iff it apperid or shulde happen apon the experience of the vsse therof that the seid Fayer shulde or myght her after be founde or knowen to be preiudiciyall or hurtfull vnto the inhabitants off the seid Towne that then the seid Fayer shulde cesse & no farther to be vsyd nor exercisyd.

Item yff ther were a paper drawyn & openyd in the councell howse of Bristowe and ther redde and soo to haue byn ingrosid, And by cause that the seid condicion that is to say iff it shulde happen hereafter that apon the experience of the seid Fayer that the vse of the seid Fayer shuld be preiudiciall or hurtfull vnto the inhabitantes of the seid Towne of Bristowe that then the seid Fayer shuld cesse & not to be vsid was left owt of the seid paper and by the assent of the seid councell ther they oponly denyed to make them ony graunt onlesse the seid wordys myght be conteyned in ther grante but they seid for that they hadde byn att costes for the laboryng of the seid Fayer they shulde haue the Fayer vntill they were recompensid off ther costes & then they wolde be advised apon the vse therof iff itt shulde contynue or nott, and the date is mencioned within the seid paper anno xxij Henrici viij<sup>ui</sup> as itt apperyth by the paper.<sup>7</sup>

Item iff the mayor & comynelte made euer ony soche grante of the seid Fayer to Richard Bromfild master of Seynt Jones in Redclyff pytte<sup>8</sup> Edward Powell parson of Redclyff & John Cragge vicar of the same Church or nott etc.

Item iff the merchauntes, Grosers, Haberdasshers, drapers, mercers, cappers, Fysshmongers & all other clothiers & occupiers of the seid Towne haue yerly lossis & hyndrans by the vse and

presented to the living of Bleadon, Somerset, and in 1508 to the prebends of Bedminster and Redclive in Salisbury Cathedral. After the accession of Henry 8 he became a frequent preacher at Court, and was distinguished as a controversialist against Lutheranism. He opposed the king's divorce, attacked Latimer from the pulpit, and refused to take the oath of succession under 25 Hen. 8, c. 22 ('Dict. Nat. Biog.'). For this he was attainted of misprision of treason by the 'Acte concerning the Attaynder of the Bysshopp of Rochester and others' (26 Hen. 8, c. 22) in 1534, and condemned to imprisonment and forfeiture. Two years later was passed the 'Acte extynguysshing the auctoryte of the Busshop of Rome' (28 Hen. 8, c. 10 [1536]), by which the refusal of the oath of supremacy was made high treason. Powell, who had been committed to the Tower,

refused the oath, and was hanged on July 30, 1540.

<sup>6</sup> The name of John Craggs does not occur in Barrett's list. Presumably he succeeded Powell, who had forfeited his preferments ten years previously. But the name is spelt below 'Cragge,' so that he may probably be identified with John Cragge, of Brasenose College, Oxford, M.A., on June 21, 1514. He was prebendary of Hereford in 1526 ('Brasenose College Register,' 1909). His will was proved March 6, 1553 (J. Foster, 'Alumni Oxonienses').

<sup>7</sup> 1530 The date of the charter was September 20, 21 Hen. 8 (1529). See A, p. 238, n. 7, *supra*.

<sup>8</sup> Apparently so called as indicating the low-lying land in contrast with the cliff. See the description of the locality in Dr. Hunt's 'Bristol,' p. 7.



occupyeng off the seid Fayer holden in Bristowe at the Fest of Candelmas<sup>9</sup> in Redelyff strete, and what losse & hyndrans they haue hade before the seid Fayer was left downe etc.

Item iff before the seid Fayer of candelmas purchesid & vsid ther was frome all halouday<sup>10</sup> vntyll Shrostyle<sup>11</sup> euery fortnyght grett resorts off Estrangers off byers & sellers vnto the seid Towne & Cyte of Bristow, wherby the inhabitauntes off the Cyte of Bristowe hadde grett levyng by comutacion of byeng & sellyng for Sythenz the begynnyng of the same Fayer ther hath byn stay & noe comutacion of byeng & sellyng with the inhabitauntes of the seid Towne vntyll the seid Fayer of candelmas whiche hath growyn & is a grett cause of the pouerysshing of the seid Towne.

Item iff before the seid Fayer of Candelmas purchesid & vsid iff men of Erlond, Walles, Cornewall & Densshere<sup>12</sup> dyd resort daylly fro the Fest of seynt michell therchaungell<sup>13</sup> vntyll the mydell of lent with ther bottes & fysshe vntill the seid Towne & ther too haue comutacion of byeng & sellyng with the inhabitauntes of the seid Towne of Bristowe & then fysshe was at a resonable prise, and nowe by reason of the seid Candelmas Fayer iff the men<sup>14</sup> of those sheres aforesaid<sup>14</sup> with ther bottes & fissue dothe Tary or will nott comme to Bristowe vntill candelmas Fayer & ther Estrangers to<sup>15</sup> by & sell with strangerz by reason wherof the Burgesis of the same Towne losse ther comutacion<sup>16</sup> & losse the trade of ther levyng and by that meanez the seid citisyus of Bristowe ar vnprovided of vitell for retayell to serue the countre inhabitauntes nere vnto them and by that meanes all byers within the countys of Glouster, Somerset, monmouthe, Dorset, Harford est,<sup>17</sup> Worssiter, Warwyke, Shropesher, & Wiltes vsing to the seid Towne too bye & too sell withdrawe them selff froo the occupyeng of the seid Towne before & Tarith<sup>18</sup> candelmas Fayer etc.

Item if the inhabitauntes of the seid Towne & Citye doo daylly be

<sup>9</sup> Candlemas was the popular name for the Feast of the Purification, celebrated by the carrying of candles. It is said that this custom was adopted by the Church from a pagan festival at this period of the year in honour of the infernal gods, this being the time at which Pluto stole Proserpine, and her mother, Ceres, sought her in the night with lighted candle: W. Hone, 'Every-day Book' (1826), i. 202. But see also W. Smith, 'Dic<sup>t</sup>. of Greek and Roman Antiquities,' sub 'Lupercalia.'

<sup>10</sup> All Hallows' or All Saints' Day,

November 1.

<sup>11</sup> Shrove Sunday, otherwise known as Quinquagesima, to Shrove Tuesday, the Tuesday after the seventh Sunday before Easter Day (J. J. Bond, 'Handybook of Dates' [1889], p. 163).

<sup>12</sup> Ireland, Wales, Cornwall and Devonshire.

<sup>13</sup> September 29.

<sup>14, 14</sup> Interlined.

<sup>15</sup> Sie for 'do.' Cf. p. 239, n. 11.

<sup>16</sup> Lose their exchange.

<sup>17</sup> Presumably East Herefordshire.

<sup>18</sup> Tarryeth, i.e. await.

twyhte the Fest of all seyntes and the begynnyng of lent sell all suche kynde of fysshe spices & other kyndes of warez by them provyded and by reason of the seid Fayer att Candelmas that kynde of comutacion is extynguysshede & the inhabitauntes of the seid Cyte off Bristowe ar fayne to kepe the wares vntyll candelmas Fayer & then estrangers reparith vnto the seid cytie to the Fayer & ther doth by & take away the trade of the levyng of the inhabitauntes of the seid cytie of Bristowe by reason wherof the inhabitauntes of the seid Towne wexith power <sup>19</sup> etc.

Item iff the creditours inhabitauntes of this cytie dothe by reson of this Fayer aswell losse ther dettes as also ther occupiers <sup>20</sup> or creditours of other shers <sup>21</sup> etc.

Item iff Strangers sellers vsith before the seyde Fayer of Candelmas too Seller or kepe serten wares in Sellers vntill the seid Fayer & ther vtterith warez to strangers byers & by reson therof the estrangers byers dothe inhansse his price of merchaundyse too estraungers so that causith every thing to be dere. <sup>22</sup>

Item iff the contynuanee of the Fayer shall in shorte tyme decay the citisons of the cyte & bring the cytie too grett wekenesse etc.

Item where the kynges maiestie bath yerly clxxx<sup>11</sup> for the fee ferme <sup>23</sup> paide by the shreves of the seid Towne <sup>24</sup> by reson of the seid Fayer in short tyme ther shalbe noo yong man able too occupy

<sup>19</sup> Poor.

<sup>20</sup> Those who give them occupation, customers.

<sup>21</sup> Shires: note the French pronunciation of the i.

<sup>22</sup> It may be suspected that the real grievance here is that these sales were not in market overt and escaped the town dues. The next interrogatory points to this; but as this grievance would be inconsistent with the complaint that prices are raised by the transactions complained of, since they would be raised by the amount of the town dues if imposed, the grievance is judiciously left unexpressed. But it is introduced in another connexion in the third paragraph following.

<sup>23</sup> As will have been seen from the case of the Sheriff v. the Mayor of Bristol, E, p. 157, the fee-ferm in 1518 was roughly 160*l*. The ancient usage of the kings had been to grant the fee-ferm for a term of years. In 1439, Henry 6 granted a lease of the ferm for twenty years at 160*l*. per annum ('Little Red Book' of Bristol, ed. F. B. Bickley, 1900, i. 236). In 1446 a lease at the same rate was granted for sixty years (J. Latimer, 'Bristol

Charters' [1909], p. 22). Edward 4 annulled the grant of his predecessor, but in 1462 granted the ferm on the same terms 'for ever.' His grant, however, was presumably invalidated upon his flight from England in September 1470, and after his restoration in May 1471, the 'ferm' appears to have been reduced to 110*l*. 19*s*. 6*d*. (L. R. B. ii. 236). At what date and upon what terms Henry 8 altered the fee-ferm rent I have not been able to ascertain. 'From the marriage of Eleanor of Castile to Edward 1, Bristol . . . was generally assigned to the Queen as part of her marriage portion; she received the rent of the Town and in almost every case leased it to the mayor and commonalty. From this custom Bristol was called the Queen's Chamber' (W. Hunt, 'Bristol,' 'Historic Towns' series, 1895, p. 56). Catherine Parr had become queen on marriage with Henry 8, on July 12, 1543.

<sup>24</sup> A comma should be read after 'Towne.' The sheriffs of Bristol received nothing from the profits of the fair at Redcliff, which was, indeed, part of the grievance.

within the seid Towne to gether Substans to bere that office & too pay the seid fee ferme.<sup>25</sup>

Item eyther <sup>26</sup> the Shrevez of the seid Towne hath yerly for ther tyme the costomes & Tolles of the yates & of all other kyndes of merchaundyse whiche shulde comme <sup>27</sup> to the seid citie whiche seid customez & tolles wer yerely worth <sup>28</sup> by reason of resorte betwene the Fest of all seyntes & the begynnyng of lent then in a maner the half yere be Sides & by reson of the seid Fayer estraungers withdrawe vntill the tyme of the Fayer & then all thinges is custome free whiche is a grett lose vnto the Shrevez etc.

Item yff the parisssheners of Redclyff haue londes to fynde ij prestes in Cannyng chantry <sup>29</sup> of the value of xl li. yerly and euery prest takyng vij li.<sup>30</sup> by the yere & alsoo for Medys chantry <sup>31</sup> they haue londes to the yerly value of xix li. and fyndyth one prest of M<sup>r</sup> John Broke foundations <sup>32</sup> payeng the prest yerly vj<sup>li</sup> xiiij<sup>s</sup> iiiij<sup>d</sup> and they haue xlv<sup>li</sup> to

<sup>25</sup> This was the complaint of the sheriff, William Dale, in 1518. See Brystowe, Sheriff of, v. Mayor of, G, p. 162.

<sup>26</sup> Each of.

<sup>27</sup> A word struck through and indecipherable.

<sup>28</sup> The amount is unaccountably omitted, nor is any space reserved for it. These would be items 1, 4, 5, 6, 7 of the list of the sheriff's receipts printed in the former Bristol case, H, p. 163. They amount to 166*l*. 13*s*. 4*d*. A full stop should be made before 'by reason.'

<sup>29</sup> This was a chantry founded in the Church of St. Mary Redcliff by the famous merchant, William Canynges. He was born at Bristol in 1399 or 1400, served as sheriff in 1438, and was five times mayor. He rebuilt the church ('Dict. Nat. Biog.'). On October 20, 1467, he gave 340*l*. in money to the vicar, wardens, &c., of the church for repairs, &c., and that they should 'with the rents and issues of the land and tenements of the same Church provide, find, and give unto two chaplains, called St. Mary's priests, nine marks apiece per annum; to two clerks, sufficiently instructed in reading and singing, at 2*l*. 13*s*. 4*d*. apiece, and for executing the sexton's office 1*l*. 6*s*. 8*d*., with divers other gifts, as per the record of the same deed in the Great Red Book, fol. 291, it may appear.' The above passage was extracted 'from a volume of the parish register for the years between 1678 and 1694 inclusive,' by George Pryce, author of the 'Memorials of the Canynges Family' (1854), p. 256.

<sup>30</sup> But the nine marks apiece, mentioned in the last note, make 6*l*. yearly, while the Chantry Certificate, giving official returns

of the chantries, dated February 14 (2 Edward 6 [1548]), states the sum at 6*l*. 9*s*. 2*d*. (Bristol and Gloucester Archæological Society's 'Transactions,' viii. 245). It may perhaps be inferred that the sum was, in round figures, nine marks, varying slightly according to the rents, &c., of the tenements on which it was charged (cf. D, p. 274, n. 35, *infra*).

<sup>31</sup> In the official return of 1548, called a 'Chantry Certificate,' this chantry appears as 'Founded by oon Richard Mede for a priest to singe in the seid Churche and pray for the sowlle of the seid Richard for euer and to kepe onn yereli Obitte, and give certeyn bredde to the poore for their relieff yerelie for euer.' The yearly gross value of the lands and tenements was returned at 17*l*. and 12*d*., and the net value at 14*l*. and 10*d*. (Bristol and Gloucestershire Arch. Soc. viii. 244). The chauntry priest was then paid 6*l*. 6*s*. yearly, so that here again is an over-statement. The will of Richard Mede, gentleman, of Redcliff, Bristol, was proved in 1491 (J. C. C. Smith, 'Index of Canterbury Wills'). Several of this name are buried in the Church of St. Mary. In the fifteenth century they were a family of importance, filling municipal offices in Bristol (Barrett, pp. 584, 585; Hunt, p. 101). Of Richard Mede, however, nothing more is known.

<sup>32</sup> Among the Chantry Certificates for Bristol I can find no mention of this foundation. There were two persons of the name connected with Bristol. A John Brook, merchant of Bristol, appears in a recognisance of March 14, 1422, which is a declaration of trust on behalf of his stepchildren ('Little Red Book,' i. 181).



pay a clerke<sup>33</sup> yerly iiij<sup>li</sup> vj<sup>s</sup> viij<sup>d</sup> & to one Mary<sup>34</sup> Prest vij<sup>li</sup> xiiij<sup>s</sup> iiij<sup>d</sup> whiche prest they do nott fynde & the ouerplus of all that londes they haue to the Churche & they consume the same which is yerely aboue all charges lvij<sup>li</sup> which is not conuerted to thuse of the church.<sup>35</sup>

Item where nowe ther ar xij or xiiij shippes able to do good seruice vnto the kynges maieste yf the seid Fayer contynue they ar leke to decay &c.<sup>36</sup>

Nothing more is known of him, nor did he attain civic honours. This being spoken of as apparently a foundation or benefaction attached to the Mede chantry, it may be taken to presuppose the chantry. The probable founder of this benefaction, therefore, was John Broke, son of Hugh Broke, who was eighth son of Sir Thomas Broke, of Holditch Court and Broke Ilchester, by the heiress of Cobham, in Kent (Glover, *Ped. Harl. MS.* 645). John Broke was elected treasurer of the Middle Temple in 1501, 1502, and 1503 ('Middle Temple Records' [1904]), i. 1, 3, 6, and Reader in 1508 (*ib.* 32). He is doubtless the '— Brooke' who was called serjeant-at-law in 1503 (E. Foss, 'Lives of the Judges,' v. 15). He married Joan, daughter and co-heir of Richard Amerycke, a wealthy citizen of Bristol, who had purchased large estates in Somerset. Upon his marriage he acquired by gift of his father-in-law one-third of the manor of Clifton, near Bristol, and in 1509 he purchased another third of the manor and other lands there (Bristol and Glouc. Arch. Soc. iii. 223–25). He was placed on the commission of the peace for Somerset in 1509 and subsequent years (L. and P. Hen. 8, i. 287, &c.), and for Gloucestershire in 1510, and subsequently (*ib.* 930, &c.). His position at the Bar suggests that he was the 'Master Broke' engaged as one of the counsel employed in draughting the will of the lady Margaret, countess of Richmond, Henry 7's mother (*ib.* ii. 4183), though there was another counsel of eminence, afterwards a judge, named Richard Broke, or Brooke. His name appears as having been paid fees of 4*l.* in 1508 and 40*s.* in December 1520, presumably for legal services, by Edward Stafford, duke of Buckingham (*ib.* iii. pp. 497, 500). He was steward of the duke's manor of Bedminster, which included Redeliff (Hunt, p. 22), at a salary of 3*l.* 6*s.* 8*d.* (10 nobles) yearly (L. and P. iii. 3695). He was also steward of the wealthy abbey of Glastonbury, certainly a lucrative office (E. Foss, 'Lives,' v. 358). In 1517 he was nominated by Wolsey one of the commissioners for Somerset of the Inquisition into Inclosures (L. and P. ii. 3297). On July 11, 1520, he was nominated

a commissioner of assize for the western circuit (*ib.* iii. 933, 11), and again in the following summer (*ib.* 1186, 12), when his name appears on the commission of the peace for Cornwall (June 26, 1521, *ib.* 1379, 12), *cf.* *ib.* 1451, 9. From this time he was constantly employed as a commissioner of assize (*ib.* 2074, 4). He died at Barton Hundred, near Bristol, on December 26, 1525, and was buried in the Church of St. Mary Redeliff, where his brass remains, representing him in the robes of a serjeant-at-law, his wife by his side. The Inquisition post mortem was held on September 25, 1526. The jury returned that Thomas Broke, aged thirty-six, was his son and heir. He left two other sons, Arthur Broke, and Sir David Broke, chief baron of the Exchequer under Mary (Bristol and Gloucestershire Arch. Soc. 'Trans.' iii. 225; E. Foss, 'Lives,' v. 358). It is clear that he was associated through his connexion with Glastonbury, and with the Duke of Buckingham with the clergy and their supporters, and this renders a benefaction by him to Mede's chantry the more probable. The prefix of 'Mr.' also suggests, as in modern usage, recent recollection. I take the final 's' of 'foundacions' to be the genitive 's' and not a sign of the plural.

<sup>33</sup> See *Abbot of Peterborough v. Power and Others*, p. 135, n. 35, *supra*.

<sup>34</sup> Priest at the altar of St. Mary.

<sup>35</sup> This calculation is not clear. The receipts enumerated are 104*l.* The expenditure amounts to 31*l.* 13*s.* 4*d.*, including the 6*l.* 13*s.* 4*d.* for the priest the parishioners do not find; otherwise it is 25*l.* But 31*l.* 13*s.* 4*d.* subtracted from 104*l.* leaves 72*l.* 6*s.* 8*d.*, and not 57*l.*; yet the framers of the interrogations plainly desired to estimate the surplus as high as possible. But if the paragraph 'and they consume the same,' &c., be taken to refer to Mede's chantry only, the calculation becomes approximately correct. The income is 64*l.* (19*l.* + 45*l.*), and the outgoings 11*l.* (6*l.* 13*s.* 4*d.* + 4*l.* 6*s.* 8*d.*). This leaves a balance of 53*l.*, to which is to be added 6*l.* 13*s.* 4*d.*, a benefaction for a Mary Prest whom they do not maintain, 59*l.* 13*s.* 4*d.* in all. See also p. 276, n. 48.

<sup>36</sup> It was the practice at this time and

Item wher ther hath byn vsid b <sup>\* 37</sup> <sup>\* 37</sup> ale housis within  
 the seid Strett of Redelyff nowe ther ar <sup>38</sup> Typplyn housis  
 within the seid Strete of Redclyff by reason of the seid (Fayer) <sup>37</sup> so  
 that where before the seid Fayer vsid they were wonte to haue  
 Workmen for ther clothis and nowe by reason of the Ty(pplyn <sup>37</sup>)  
 (ho)wesis <sup>37</sup> ther wyll fewe or none workmen vse to worke within  
 the seid Strete etc and how poor men dwelling within the same  
 strete\* <sup>37</sup> e nowe wexen by reason of Typplyng & for trust of the  
 smale gaynez which they haue at the tyme of the seid Feire wher  
 before the begynnyng of the seid Feire ther were dyuerse substancyall  
 & riche men ther dwelling & levyd well by ther occupacions & occupy-  
 eng of clothmakyng <sup>39</sup> & dyuers good spynsters & carders. <sup>40</sup>

long after for the Admiralty to hire merchant vessels upon the outbreak of war and equip them for service in the Navy. The Navy Records Society (1896, p. 339) prints a list of ships' ordnance stores of April 26, 12 Henry 7 (1497), furnished for a fleet directed against Scotland, shewing that Bristol then contributed three to the fleet of ten ships. On March 22, 1513, Admiral Sir Edward Howard wrote to Henry 8, from the Downs, 'Sir, the shippes off Bristow be her with me. I assure Your Gras, gorgeas shippis for ther burdon, one that Anthony Poyngs is in uppon a 180, and another of 160, and another of 140' (N.R.'s 'Letters and Papers relating to the War with France in 1512-13' [1897] p. 97). These ships were named the Trinity of Bristol, the Cristopher Davy, and the Matthew Cradock (ib. n. 1). The first of these, or a ship of the same name, was one of three Bristol ships forming part of Lord Lisle's fleet in 1545, which consisted of thirty-eight vessels (J. S. Corbett, 'Fighting Instructions' [1905], pp. 20, 21). Henry 8 so greatly enlarged the Navy that the old method of recruiting it by hiring and impressing merchant vessels, though not abandoned, was less relied on, and this probably accounts for the smallness of the Bristol contingents in his reign. His additions to the fleet, exclusive of thirteen row-barges, numbered eighty-five vessels, and of these forty-six were built, twenty-six were purchased and thirteen were prizes (M. Oppenheim, 'History of the Administration of the Royal Navy,' 1509 to 1660 [1896], p. 52). The story told by Barrett (p. 83) and by Nicholls and Taylor in 'Bristol Past and Present' (1881), i. 240, of Henry 8's eulogy upon eight ships contributed by Bristol to the fleet of 1545 savours of Chatterton's forgeries, and is contradicted by the official document cited above. See as to Bristol

ships, G. Roberts, 'Social History of the Southern Counties' (1856), pp. 47-9.

<sup>37</sup> MS. cut.

<sup>38</sup> The loss of these figures is extremely unfortunate. The interrogatory suggests a technical difference between an ale-house and a tipping-house. The sense of 'to tittle' appears to have been to drink to excess, perhaps until a man 'tipped' over. In the earliest statute for checking drunkenness, passed in 1552 (5 & 6 Ed. 6, c. 25), power was given to the justices of the peace 'to remove discharge and putt awaye common sellinge of Ale and Bere in the said common Ale-houses and Tiplinge houses in suche Towne or townes and places where they shall thinck mete and convenient.' The statute prescribes a licence 'to kepe any common Alehouse or Tiplinge house,' and imposes a fine on any who keep such houses unlicensed, apparently recognising no distinction between the two. Quære, was the difference that wine was sold in the tipping-houses?

<sup>39</sup> The district of Temple Fee 'became the home of the Weavers' craft' (Hunt, p. 39). 'The Weavers formed the wealthiest craft in Bristol; their trade was the largest, and they had much money at their command' (ib. p. 81). The manufacture of cloth on a large scale is believed to have begun with a licence granted by Edward 3 to Thomas Blanket and other burgesses of Bristol to construct machines and make woollen cloth (Rymer, 'Foedera,' O. v. 137; Barrett, p. 165). 'Whether, as is usually said, the woollen stuff made by Blanket's workmen was the first appearance in England of the article that has made his name a household word, or no, we may at least believe that the Bristol weaver and his goods derived their name from the same source, *blanchette*, a white cloth' (Hunt, p. 76). When Sebastian



C. DEPOSITIONS TAKYN AT THE CITIE OF BRISTOLL  
THE xiiij<sup>ne</sup> day off January the xxxv<sup>th</sup> yere of the raigne  
of our Soveragne Lord kinge Henry the Eight<sup>1</sup> by the  
grace off God kinge of England Fraunce and Irlond  
defendour of the Faith and in earth Supreme Head off  
the Church of Englonde and Irlond,<sup>2</sup> before the Reuerend  
Father in god Paule bysshop of the diocese of Bristoll,<sup>3</sup>  
Sur John Sayntlow knight<sup>4</sup> and John ken esquier,<sup>5</sup> by  
Force of the kinges high Commission to them directid,  
accordinge to certayne Interrogatories vnto the same  
annexid.

Cabot sailed from Bristol in 1498, his ships were laden, amongst other goods, with coarse cloth (Stow cited by S. Seyer, 'Memoirs of Bristol,' ii. 209). The export from Bristol consisted of undyed cloth. It was by no means flourishing at this time. The tables constructed by Schanz shew that while during the first five years (1509-14) of Henry 8's reign the average amount of cloth exported yearly was 2992 pieces, it fell during the last whole five years (1541-46) to 1556 pieces. In the year 1542-43 it was slightly above this average, viz. 1619 pieces. The average was undoubtedly lowered by the war with France, for in 1544-45 it fell to 504 pieces (G. Schanz, 'Englische Handelspolitik' [1881], ii. 89).

<sup>10</sup> In the 'Acte avoydyng deceptes in making of Woollen Clothes' (6 Hen. 8, c. 9), passed in 1515, provisions were made for weighing the materials given out to the workmen. These order 'the Carder and Spynner to delyver agayn to the same clothier (who has given it out to them to work up) yerne of the same Wolle by the same evyn juste and true poys and weight the wast therof exceptid withoute any parte therof concelyng or any more oyle water or other thing put therunto deceyvably.'

<sup>1</sup> 1544.

<sup>2</sup> The 'Bill for the Kinges Stile' (35 Hen. 8, c. 3), introduced in the session of Parliament which opened on January 14, 35 Hen. 8 (1544)—that is, the same day that these depositions were taken—prescribes this form of words. The draughtsman followed the proclamation of the style which, in anticipation of the statute, and in conformity with the 'Acte that Proclamacions made by the king shall be obeyed' (31 Hen. 8, c. 8), passed in 1539, had been published two years before, on January 23, 1542. 'Bibliotheca Lindesiana,'

'Hand-list of Proclamations' (1893), vol. i. 33 Hen. 8; cf. L. and P. Hen. 8, xviii. ii. p. 109.

<sup>3</sup> Paul Bush, or Bushe, first bishop, educated at Oxford, where he took his degree of B.A. in 1517, proceeding afterwards B.D. and D.D. He was an Austin Friar, and was last rector of a house of the reformed order of Austin Friars known as the 'Bonhommes,' at Edyngton, Wilts (J. Le Neve, 'Fasti Ecclesiae Anglicanae' [1854], i. 213). Henry 8 made Bush his chaplain and appointed him to Bristol on the foundation of the bishopric. He was consecrated June 25, 1542. He appears to have halted in his opinions between the reforming and the conservative party among the clergy, favouring the traditional doctrine of the Mass on the one hand, but on the other marrying a wife, one Edith Ashley, who died in 1553. He was, in consequence, in Mary's reign proceeded against by an ecclesiastical commission, of which Gardiner and Bonner were the chief members, and sentence of deprivation was passed against him. He died on October 11, 1558, and was buried near the grave of his wife in the north aisle of Bristol Cathedral, where is his mutilated Renaissance monument, a tansured cadaver resting under a canopy supported on shafts. 'Dict. Nat. Biog.'; 'Handbook to the Cathedrals of England' (John Murray), pp. 155, 156.

<sup>4</sup> The family of Seynt Low, St. Lo, or de sancto Laudo, took their name from the town of St. Lo in Normandy. As early as the reign of Richard 1 they were seated at Newton, known as Newton St. Lo, in Somerset. Sir John St. Lo in the time of Henry 6 was constable of the castle of Bristol and keeper of Kingswood and Filwood Forests (J. Collinson, 'Hist. of Somerset' [1791], iii. 341-43.) Sir John Seynt Low, as he signed himself, was son



and heir of Nicholas Seynt Low, of Stoke, Somerset, probably Stoke Gifford, five miles N.N.E. of Bristol. His father Nicholas, who died in 1508 (J. C. C. Smith, 'Index of Canterbury Wills,' L. and P. Hen. 8, i. 570), was second son of Sir John St. Lo by a daughter of Sir John Guyse (S. Rudder, 'Hist. of Gloucestershire' [1779], p. 774). John Seynt Low was at that time eight years of age (L. and P. iii. 2145). The custody of the manor of Stoke during his minority was granted by the Crown to Sir William Kyngeston, a knight of the Body, December 1, 1517 (ib. ii. 3821). Kyngeston forthwith married Seynt Low to his daughter Margaret (ib. xii. i. 1195; cp. xiii. ii. 755). On November 4, 1528, Kyngeston and Seynt Low, now 'Sir' John S., were appointed stewards of the manor of Thornebury, Gloucestershire, forfeited by the attainder of Edward Stafford, duke of Buckingham. They were also made constables of the duke's castle there. These offices, of the value of 7*l.* and 5*l.* a year respectively, had been held by Kyngeston since January 29, 1522, and he surrendered his patent for the purpose of this re-grant (ib. iv. 4993, 4). The fact that St. Lo became a knight at so early an age indicates influential patronage, doubtless that of Kyngeston, who had distinguished himself at Flodden and was already a favourite of the king. The precise date of his knighthood is unknown, Metcalfe ('Book of Knights' [1885], p. 102) having assigned it to 1548, and Shaw ('The Knights of England' [1906] ii. 64), to 1549, or later. Seynt Low had evidently recommended himself to Cromwell (L. and P. vi. 299, p. 132), and it was probably through the secretary's influence that he obtained, on February 6, 1533, a grant of the office of chief steward of the lordship of Portebury, Somerset (ib. vi. 196, 8). Portbury, from which the lordship takes its name, is a village five miles W.N.W. of Bristol, and Cromwell, who had been called to the Bar at Gray's Inn in 1524, became in 1533 recorder of Bristol, which may have brought him into contact with Seynt Low. Like Kyngeston, Seynt Low was a soldier, and of sufficient repute to be placed, it would appear by Cromwell, at the head of a force of 2,000 men dispatched to Ireland in September 1534 (ib. vii. 1167). His value was appreciated by the Earl of Ossory, Piers Butler, afterwards Earl of Ormonde, who was active in crushing the insurrection of his brother-in-law, Lord Thomas Fitzgerald. Ossory wrote to Sir William Skeffington, the lord deputy, on January 17, 1535, begging that Seynt Low might remain in Ireland (ib. viii. 60). During February

and March 1535, Seynt Low and his force, with the town of Waterford as their headquarters, overawed that county and Kilkenny (ib. 222, 449, 881). His services in preventing reinforcements reaching the rebels during the siege of Maynooth in March 1535 (ib. 881) were rewarded in April by his appointment as marshal (ib. 621). He apparently left Ireland in May, being reported to Cromwell as being at Conway on the 24th of that month (ib. 755), and on August 21, though again in Ireland, was incapacitated by illness from active service, his place being taken by his brother, William Seynt Low (ib. ix. 147). He however joined the Council of Ireland in a dispatch from 'the camp' to Henry 8, dated August 27, giving an account of the surrender of Thomas Fitzgerald, the rebel Earl of Kildare (ib. 197). He took part in the assault and capture of Dungarvan Castle in the following September, and was made 'commissioner and chief of the "Corum" (Quorum) in those parts' (ib. 331, 626). In April 1536 he was back in Somerset. It was imputed to him by John Clerk, bishop of Bath and Wells, who had joined in pronouncing the divorce of Katharine of Aragon, that he was intriguing not merely against the bishop but, as it would appear, against the policy involved in the marriage of the king with Anne Boleyn (ib. x. 625). Nevertheless, Seynt Low must have succeeded in clearing himself with Cromwell, for in 1536, upon the outbreak of the Northern rebellion, he was one of the gentlemen nominated to attend upon the king's own person against the insurgents. He was, apparently, expected to furnish a contingent of 100 men from Somerset (ib. xi. 580, 2), and received an advance of money for that purpose (ib. 623). In November 1536 he was pricked sheriff of Gloucestershire (ib. 1217, 23—cf. R.O. MSS. Ct. of Requests, Bde. civ. 1), in which county he was probably lord of the manors of West Littleton and Tormarton (Rudder, pp. 530, 1), besides occupying Thornbury Castle. Seynt Low seems from this time to have been occasionally about the Court (L. and P. xii. i. 1194–5). He was present at the christening of Prince Edward on October 15, 1537 (ib. xii. ii. 911, ii). He held fast to his alliance with Cromwell, whom he kept informed as to the state of the country (ib. xii. i. 1194–5, and ii. 58). In February 1538, and in subsequent years, he was placed on the commission of the peace for Somerset (ib. 384, 19, xv. 282 [9], &c.). He obtained grants in June 1538 of reversions of lands in Worle and Lokkyng, Somerset, let upon unexpired leases, belonging to the dissolved priory of Worspryng (ib. 1309, 3). At this time

Seynt Low's son and heir, William, aged 20, married to a daughter of Sir Edward Baynton, was in the household of Henry Courtney, marquis of Exeter, as also was another relation of the same name (ib. xiii. ii. 755). It was a dangerous association, for in December 1538 Exeter was executed for high treason. But Seynt Low himself appears to have incurred no suspicion, for in November 1539 he was designated one of the knights to take part in the reception of Anne of Cleves (ib. xiv. ii. 572, 3, viii; and xv. p. 5). He was nominated a commissioner of gaol delivery at Ilchester on October 25, 1540 (ib. xvi. 220, 33). Upon the death of his father-in-law, Sir William Kyngeston, in 1540, he obtained the grant in succession to him of the stewardship of the lordship of Bedmynster and hundred of Bedmynster and Hertclyff, Somerset, an office of the annual value of five marks (3*l.* 8*s.* 4*d.*) (ib. xvi. 379, 50). This post brought him into close connexion with Redcliff (see A, p. 237 n. 2, *supra*). In January 1542 he purchased lands in Hoddenhull, Warwickshire, from Sir Marmaduke Constable, for 600*l.* (ib. xvii. 26), but he could only pay 300*l.* down, and was perhaps compelled, in order to find the balance, to mortgage his manor of Lokkyng (ib. 71, 3). He was nominated a commissioner of sewers for Somerset on May 13, 1542 (ib. 362, 44). In the same year he settled upon his wife Margaret the manor and advowson of Bechyn Stoke, alias Chewe Stoke, Somerset (ib. 443, 17). His name appears in 1544, in the list of knights and gentlemen of Somerset destined for service in the invasion of France (ib. xix. i. 273). In September of that year he was assigned a post in the garrison of Boulogne in attendance upon the king, during the advance of the main army, the number of 110 men commanded by him being presumably the number brought by him into the field (ib. ii. 223). He was returned to Parliament for Somerset in January 1545 ('Members of Parliament,' *Append.* xxxi. 'Parl. Papers,' 1878). In 1546 he was a commissioner of musters for Somerset (ib. xxi. i. 91), and a commissioner to assess contributions for that county to the forced loan (ib. 970, 32). He received, presumably as reward, in the same year a grant to himself and William, his son in survivorship, of the keeping of Eastwood Park in Thorneburie lordship, Gloucestershire (ib. ii. 475, 91). In the Certificate of Chantryes in Gloucestershire and Bristol, dated February 14, 2 Edward 6 (1548), his name is mentioned as giving evidence with regard to the parsonage of 'Tromerton' (Bristol and Gloucestershire

Arch. 'Trans.' viii. 277). This must have been taken in 1547, and as his name does not occur in the Letters and Papers of subsequent years, it may be inferred that he died about that date.

<sup>5</sup> John Ken, or Kenn, whose father and grandfather both bore the same names, was of the ancient family of Ken, or Kenn, 'of that ilk,' where they were settled as early as the reign of Henry 2. He was admitted a member of the Inner Temple on July 7, 1510, but permitted to be 'out of commons at his pleasure,' for 26*s.* 8*d.*, at the instance of Baldwin Malet, a member of another old Somerset family ('Inner Temple Records' [1896], i. 18). This concession suggests that he was resident in Somerset, in which case his father was probably dead, though it would seem that he practised at the Bar, for he was nominated on July 9, 1527, as marshal, in the event of Anthony Coope declining to serve. As marshal he would exercise authority at the time of the Christmas revels, arranging the company at dinner according to their degrees, and taking a part in the management of the revels. But his name is not to be found in the lists of practising counsel in Foss's 'Lives of the Judges.' His grandfather, John Kenn, had married Isabel, daughter and heir of Sir John Juyn, recorder of Bristol, and afterwards chief baron of the Exchequer. In 1529 John Kenn, the grandson, succeeded as her heir to the manor of Long-Ashton, or Ashton Theynes, Somerset (J. Collinson, 'Hist. of Somerset' [1791], ii. 295). John Kenn, the grandson, also held one-third of the manor of Kingston-Seymour (Inq., 16 Hen. 8 [1524], ib. 123). At this date his father, John Ken, was evidently dead. One of that name was nominated a commissioner of subsidy for Somerset in 1523 and 1524 (L. and P. Hen. 8, iii. 3282; iv. p. 236). The constant rains of the year 1535 having caused floods in the county, complaints were made to Henry 8, who wrote a 'somewhat vehement' letter to Clerk, bishop of Bath and Wells, apparently as one of the landowners charged with neglect of the drainage. The bishop called in Ken, among others, to advise as to the remedy to be adopted (Bishop John Clerk to Cromwell, September 17, 1535, L. and P. ix. 383). Ken was probably at this time a commissioner of sewers for the county, as the bishop's letter appears to indicate. He was also so nominated on May 13, 1542, the repair of the sea dykes at Ken, among other places, being specially entrusted to them (ib. xvii. 362, 44). His name is on a list of the gentlemen of Somerset for raising troops for the war with France in 1544 (ib. xix. i. p. 155). He seems to have passed the retired life of a country gentleman, and



INPRIMIS as to the first intergatorye, Thomas Pacy nowe Mayour of the Citie of Bristoll<sup>6</sup> of the aige of lx yerres & more, Richard Abyngdon<sup>7</sup> of the same grocer, Roger Cooke<sup>8</sup> of the same tanner, Richard Tunnell<sup>9</sup> of the same draper, Clement Base<sup>10</sup> of the same whittawer,<sup>11</sup> William Chester<sup>12</sup> of the same merchaunt, John Spryng<sup>13</sup> of the same mercer, Robert Elyott<sup>14</sup> of the same merchaunt, John Rippe<sup>15</sup> & John Jervys<sup>16</sup> of the same Grocerz, Nicholas Thorne &

was living at Kenn in 1545 (Collinson, iii. 592). He was twice married: first to the daughter of — May, esquire; secondly, to Margaret, daughter of Sir Christopher Baynham, of Claverwell, Gloucestershire. By his second wife he had issue, Christopher Ken, who succeeded to the estate of Ken, and three other sons (Collinson, p. 592). Christopher Ken was probably a collateral ancestor of the bishop of Bath and Wells, Thomas Ken (E. H. Plumptre, 'Life of Thomas Ken' [1890], i. 12).

<sup>6</sup> So in Barrett's 'Calendar,' p. 685, where he appears as 'Thomas Pacy, senr.' The two calendars in the Bristol and Glouc. Arch. 'Trans.' xix. 132, 3, are again incorrect, the Bristol Museum Calendar dating his election 1544, while the Fox MS. under 1542 gives Thomas Parry, senr. As to these calendars, see further Brystowe, Sheriff of, v. Mayor of, A, p. 142, n. 3. Thomas Pace served as sheriff in 1516 (Barrett, p. 683). He was nominated on the commission of the peace for Bristol on January 30, 1535 (L. and P. viii. 149, 80). Upon the termination of his mayoralty he was elected a constable of the staple of Bristol, the election being confirmed by patent of October 9, 1544 (ib. xix. ii. 527, 7). His name does not subsequently occur in the L. and P. On May 23, 7 Edward 6 (1553), he signed as 'Thomas Pacy, churchewar(den) of All Saints' Church' (B. and G. Arch. 'Trans.' xii. 84); but as 'senior' is not added this may have been the signature of his son. He had in 1539 belonged to the party opposed to religious change, and is stigmatised by William Ryppe, a vehement reformer, as 'the prater Pacy' (L. and P. xiv. i. 184 [1]). The occasion of Ryppe's outburst appears to have been the apprehension for heresy of George Wishart, afterwards martyred in Scotland, on account of a sermon preached in the Church of St. Nicholas (R. Ricart, 'Kalendar,' p. 55).

<sup>7</sup> According to Barrett's 'Calendar,' pp. 683-4, Richard Abyngdon was sheriff in 1515, and mayor in 1525 and 1536. His will was proved in 1545, he being described as of St. Mary Porte, Bristol (J. C. C. Smith, 'Index to Canterbury Wills'). 'The liar Abynton,' according to William Ryppe

(L. and P. xiv. i. 184 [1]).

<sup>8</sup> Roger Coke (Cooke), sheriff 1521; mayor 1534, 1539, and 1551 (Barrett, pp. 684-5). In 1552 he was appointed one of the commissioners to take an inventory of church goods in the city of Bristol (B. and G. Arch. Soc. xii. 75). His will was proved in 1557, he being described as of St. Philip's, Bristol ('Index to Canterbury Wills'). When mayor he wrote a somewhat spirited refusal to Cromwell, then recorder, who had requested to have the nomination of the town clerk (L. and P. ix. 163). But the abusive letter, written in 1539 by William Ryppe, of Bristol, designates him as one of the conservative party in matters doctrinal, 'foolish Coke' (ib. xiv. i. 184 [1]).

<sup>9</sup> Richard Tonnell (Tunnell), sheriff 1514 (Barrett, p. 683), and mayor 1528 (ib. p. 684). 'Drunken Tonell,' according to William Ryppe (L. and P. xiv. i. 184 [1]).

<sup>10</sup> Clement Bays (Base), sheriff 1519 and mayor 1532 (Barrett, ib.).

<sup>11</sup> Or white tawyer, a tanner of white leather (J. O. Halliwell, 'Archaic Dictionary' [1850]).

<sup>12</sup> William Chester, sheriff 1522, and mayor 1537 and 1552 (Barrett, pp. 684-5). He was a commissioner to take an inventory of church goods in Bristol in 1552 (B. and G. Arch. Soc. xii. 75, 81-97). Ryppe describes him as 'that double knave William Chester, for sometimes he is with us and sometimes he is with the knaves; but he shall be a long knave for it, and his wife a foolish drab; for she is the enemy of God's word' (L. and P. xiv. i. 184).

<sup>13</sup> John Spring (Spryng), sheriff 1524 and mayor in 1540 (Barrett, p. 684). 'Old foolish Spryng,' according to William Ryppe (L. and P. xiv. i. 184 [3]).

<sup>14</sup> Robert Elyott (Elyott), sheriff 1521, mayor 1541 (Barrett, ib.). In 1552 he was appointed a commissioner to take an inventory of church goods in Bristol (B. and G. Arch. Soc. xii. 75). 'Stutting Elyott,' according to William Ryppe (L. and P. xiv. i. 184 [1]). To 'stut' is 'to stagger in speaking or going'; generally, to stutter (J. O. Halliwell, 'Archaic Dict.').

<sup>15</sup> This name is printed in Barrett, p. 683, sub 1517, when he was sheriff, as



John Thorne<sup>17</sup> of the same merchauntes, Willyam Kelke<sup>18</sup> of the same

Pepe. But the two Bristol Calendars in B. and G. Arch. Soc. 'Trans.' xix. pp. 130, 131, give Rep (Bristol Museum MS.) and Reepe (Fox MS.), and Ricart's 'Kalendar' (p. 56) Repe. The will of a John Repe, of St. Stephen's, Bristol, was proved in 1506, the testator perhaps being the father of this person, but the spelling, at any rate, makes against the correctness of Barrett's form, as also do the letters signed William Ryppe in L. and P. xiv. i. 184.

<sup>16</sup> John Jervis (Jervys), sheriff 1525 (Barrett, p. 684). The name is given as Gervis in the Bristol Museum MS. Calendar, and Jarvis in the Fox MS. (B. and G. Arch. Soc. 'Trans.' xix. 130, 131). The will of John Gerveys, of Allhallou, Bristol, was proved in 1555 ('Index to Canterbury Wills'). William Ryppe calls him 'that drunken Gervys' (L. and P. xiv. i. 184 [3]).

<sup>17</sup> Nicholas Thorne, a famous merchant, son of Robert Thorne, merchant, whose will was proved in 1519 ('Index to Canterbury Wills'), was born in 1496. In 1526 he was 'a principal merchant of Bristol.' It is conjectured by Fox Bourne in 'English Merchants' (1866), p. 161, that John Thorne was his brother, but the omission of the name of the latter from the will of Robert Thorne makes against this (see Nicholls and Taylor, 'Bristol Past and Present' [1881], ii. 162). Nicholas Thorne was sheriff, with John Thorne as his colleague, in 1528. He was one of the earliest English merchants to trade to the West Indies (Bourne, p. 161). He was also a wine merchant, probably an importer of Canary, Thomas Berkeley, lord Berkeley, being at his death 27s. in debt to him for wine (L. and P. vi. 66 [1533]). His elder brother, Robert Thorne, junior, a Spanish merchant, who is said to have been assassinated at Seville, was the first to establish a direct trade with the Canaries (Nicholls and Taylor, i. 231). Robert's will was proved in 1532 ('Index to Canterbury Wills'). Nicholas, who was made his residuary legatee (Nicholls and Taylor, i. 233), had some difficulties with his executors, and in 1533 procured the intervention of Cromwell in his behalf with the Lord Chancellor, Sir Thomas Audley (L. and P. vi. 1696). In the following year the 'Bill' of Nicholas Thorne, probably a petition, is an entry among Cromwell's 'Remembrances' (ib. vii. p. 345), and the item 'xxiv. Mr. Thorne's goods valued' (ib. p. 347) seems to refer to the point of dispute mentioned in Nicholas Thorne's letter as to whether the estate of Robert Thorne in England was, as Nicholas asserted, sufficient to pay the legacies. Cromwell appears

to have engaged him to build a ship, in which both had some interest, for on December 28, 1535, Nicholas writes to the chief secretary asking him to procure timber from certain ecclesiastical lands for building 'the Saviour' (ib. ix. 1025), and in 1536 was endeavouring to get payment for his charges (ib. xii. i. 133). King Henry and Queen Anne Boleyn visited the now royal manor of Thornebury on August 18, 1535, and remained there ten days, the prevalence of the plague in Bristol making a state visit to the town unadvisable. The mayor, Roger Coke, accordingly deputed three of the townsmen, among them Nicholas Thorne, to repair to Thornebury with presents for the king and queen. The king received ten fat oxen and forty sheep; Queen Anne a cup of silver gilt weighing 27 ounces, containing 100 marks of gold (66*l.* 13*s.* 4*d.*), 'hir grace then promysing to demaund or have noon other gifte but oonly that, if her said grace wold resorte to this said Towne at any tyme thereafter' (R. Ricart's 'Kalendar' [Camden Soc. 1872], p. 53). It is said, however, on the authority of a MS. of the authenticity of which I have no evidence, that, despite the plague, the king 'came disguised to Bristol, with certain gentlemen, to Mr. Thorne's house and secretly viewed the city' (B. and G. Arch. Soc. 'Trans.' viii. 41. The use of the word 'city,' which Bristol did not become till 1542, shows that the MS. is, at any rate, not strictly contemporary). This introduction of Nicholas Thorne to Anne Boleyn perhaps led to his furnishing to her early in 1536, in accordance with a letter of her hand, dated 'Westminster, 14 Dec.' (1535), '49 lb. of slevyd silk of Granatho' (Granada) for 61*l.* 5*s.* (ib. x. 914). In 1535 he was put on the commission of the peace for Bristol (ib. viii. 149, 80). Apparently he belonged to the party opposed to the Reformation, as did so many of those mentioned here, for in 1539 the vituperative William Ryppe calls him 'the niggard Thorne' (ib. xiv. i. 184 [1]). The lean and hungry face of his portrait suggests that Ryppe's characterisation may have been accurate (Nicholls and Taylor, i. 241). His wife apparently sympathised with his views (L. and P. xiv. i. 184 [3]). The 'Saviour' was finished in April 1539, manned with sixty sailors, besides officers, and bedecked with flags and streamers of the colours and arms of Cromwell, who since July 9, 1536, had been ennobled as Lord Cromwell of Wimbledon. So wrote Nicholas to his patron on April 10, 1539 (ib. 736). The 'Saviour' returned from its first voyage, which was to Andalusia, in the following September, of which Cromwell

mercier, and Robert Salteridge<sup>19</sup> of the same clothier, they and euery of them sworne & examyned, sayen that they were of the comon counsell of Bristoll when that suyte was made abowte Candellmas Faire,<sup>20</sup> But they say they were nott pryvy to the lettyng out<sup>21</sup> of the comon seale of the said Citie of Bristowe, but vnto the covenantes they were pryvy forasmoch as often tymes they were had in comunycacion amonges the Councell when they were present.

2. ITEM as to the second Intergatorie, the aboue named Thomas Pacy and others there named affirm the said second interrogatorye to be trewe by their othes.

3. ITEM to the third intergatorye, the said Thomas Pacy & euery of the others aboue namyd by their othes affirmyth the said third intergatorye to be trewe, and they presented part of the boke in paper vnto the said Commissioners drawen by the hand of one John Collys late towne clerke of the said citie of Bristowe<sup>22</sup> nowe<sup>23</sup> decessid which booke is redy to be shewid.

4. ITEM AS to the Fowerth Intergatorye, all they aboue named persons do saye that they did assent to the Covenantes and agrementes menciyoned and conteigned in the said paper boke, writtyn with the hand of the said John Collys, butt they saye the said Grauntes & agrementes were nott sealid by the said Mayour & Communaltie forbycause the said Richard Bromfild & others of the

was duly notified (Nicholas Thorne to Cromwell, September 15, 1539, *ib.* ii. 172). Nicholas Thorne was elected mayor of Bristol in 1544, and as was customary, mayor of the staple of Bristol a few days later, having the two ex-mayors, Thomas Pacy and Richard Tonell, as his lieutenants in the offices of constables of the staple (*L. and P.* xix. ii. 527, 7, October 9, 1544). He in his turn became one of the two constables of the staple, with William Shipman as his colleague, in October 1545 (*ib.* xx. ii. 707, 21). On November 26, 1545, the Privy Council sat to consider a petition of 'Mr. Thorne of Bristow,' setting forth the hard case of Walter Roberts, who, with three other English merchants, had been plundered and imprisoned by the Inquisition at St. Sebastian (*ib.* 874). Nicholas Thorne died on August 19, 1546, aged 50. His will, dated August 14, 1546, bequeathed sums of money for improvements in the public institutions of Bristol, 30*l.* for the repair of the Free School and the building of a library there, and 20*l.* towards the maintenance of the Free School, which, as one of the three executors of his father, Robert Thorne, he had helped to found (Nicholls and Taylor, i. 241). 'A superb

monument' was erected to him in the Church of St. Werburgh (Barrett, p. 483). Of John Thorne, except his shrievalty in 1528, I have been unable to find any particulars. He is perhaps the John Thorne of St. Nicholas, Bristol, whose will was proved in 1556 (J. C. C. Smith, 'Index to Canterbury Wills').

<sup>19</sup> William Kelke was sheriff in 1529. I have failed to find any other particulars about him.

<sup>19</sup> I have discovered no particulars of this person.

<sup>20</sup> 1529. See A, p. 238 n. 7, *supra*.

<sup>21</sup> This phrase appears to mean nothing more than that they knew nothing of the use of the Common Seal, and to imply that, while they took no objection to a grant not under seal which, as not binding on the corporation, would be revocable at will, they might have objected, had they been consulted, to an indefeasible concession.

<sup>22</sup> The name of John Collys occurs as a parishioner of St. Ewen's in 1496 (*B. and G. Arch. Soc.* xv. 285). I have failed to find any other mention of him.

<sup>23</sup> This word is added at the end of a line, apparently in different ink.



parishe of Radelyff dyd refuse to stond to part of the covenantes & agrementes conteyned in the said paper boke drawen by the said John Collys.

5. ITEM as to the Fyve<sup>th</sup> intergatory Richard Abyngdon of the Citie of Bristoll of the aege of lxx yerez or thereabowtes, John Rippe, John Jervys, Willyam apowell, Anthony payne,<sup>24</sup> Willyam Younge,<sup>25</sup> Roger Jones,<sup>26</sup> Roger Abyngton,<sup>27</sup> Harry Smythe, Willyam yeoman, Willyam pille,<sup>28</sup> John Walton,<sup>29</sup> Haberdasshers<sup>30</sup> & inhabitauntes of the said Citie, they & euery of them sworne & examyned, saye that the Faire holden at Candelmas in Bristowe is preiudicyall & hurtfull vnto them. That where dyuers occupiers were wont to repayre to the said Citie euery fortenyght or thre wykes at the leest & bestowe moche money

Haber-  
dasshers.

<sup>24</sup> According to the Bristol Museum MS. Calendar, William Appowell served as sheriff in 1534, his colleague being Anthonie Paine. The names are given in the Fox MS. as William ap Powel and Anthony Pyne sub anno 1533 (B. and G. Arch. Soc. xix. 130, 1). Barrett's List, sub anno 1533, which may be taken to be correct as to date, gives William Howell, Anthony Pain. The will of William Appowell, of St. Evence, Bristol, was proved in 1554 ('Index to Canterbury Wills'). His colleague in the shrievalty is described by William Ryppe as 'that lubber Antony Payne' (L. and P. xiv. i. 184 [3]).

<sup>25</sup> William Young, or Yonge, sheriff of Bristol 1539, mayor 1555 (Barrett, pp. 684-5). In 'Notes on the Family of Yonge,' Sir John Maclean suggests that he may have been a son of Sir Thomas Yonge, justice of the Common Pleas and King's Bench successively, who died in 1476 (B. and G. Arch. Soc. 'Trans.' xv. 231). He is called 'sloven William Yong' by William Ryppe (L. and P. xiv. i. 184 [3]).

<sup>26</sup> Roger Jones, sheriff 1544, mayor 1559 (Barrett, p. 685). His name, signed Roger Joneys, alderman, is to be found subscribed to a memorial apparently addressed to the Privy Council on October 21, 1568, in which he and thirty-nine other citizens of Bristol lodge a complaint against Richard Cheyney, bishop of Gloucester and Bristol, on account of three sermons delivered at Bristol during the previous August and September of a tenour hostile to the Reformed doctrines (B. and G. Arch. Soc. v. 229, 230). The omission of his name from the number of those abused by the reformer William Ryppe indicates the trend of his theological opinions nearly a quarter of a century earlier.

<sup>27</sup> I have found no particulars of this person, unless Roger and not Richard Abyngdon was 'the liar Abynton' of

William Ryppe's letter; but the association in both this document and in that letter of Abynton, or Abyngdon, with Pacy, Tunnell, Elyott and Thorne makes in favour of the identification in note 7, supra. On the other hand, 'dreamy Smith,' who may be the bearer of the next name, 'Harry Smythe,' is associated by William Ryppe with 'the liar Abynton' (L. and P. xiv. i. 184 [1]).

<sup>28</sup> Wy. Pill was one of the forty signatories mentioned in n. 26. I have found no other mention of him. The name is local, said to be derived from the channels or 'pills' lining the Severn estuary, Welsh 'pwll,' English 'pool.' See Professor Earle on local names in the B. and G. Arch. Soc. viii. 51.

<sup>29</sup> I have found no particulars of this person.

<sup>30</sup> In the course of the sixteenth century the trade ('haberdasher') seems to have been split into two, those of (a) a dealer in or maker of hats and caps; (b) a dealer in small articles appertaining to dress, as thread, tape, ribbons, &c. (J. A. H. Murray, 'Engl. Dict.' s.v.). Of these classes, the first (a) was divided into the 'Hurers' or 'Hurriers' or cappers, and the hatters. By a charter of April 27, 16 Hen. 7 (1501), the cappers and hatters of London were incorporated into one gild as the Haberdashers' Company (L. and P. Hen. 8, i. 1317). Tucker Street in Bristol recalls the tuckers or fullers, who made hats and caps. The preamble of the Act 22 Ed. 4, c. 5, passed in 1483 to put down the use of fulling-mills, recites that 'Hats, Bonnets and Caps . . . were wont to be faithfully made, wrought, fulled and thicked by men's strength, that is to say, with hands and feet, and thereby the makers of the same have honestly before time gained their living,' &c. The industry was an important one in Bristol.



in all sortes of Wares, to the releiff of all the Craftysmen & occupiers of the same Citie nowe by reson of the said Faire the<sup>31</sup> stay and refrayne vnto the tyme of the said Faire to the grett losse & hynderaunce of all craftysmen & occupyers there, and also they & euery of them saye, that at the said Faire many Straungers, byers & sellers, do resort and bargayne one with the other for days, that is to saye, From the Fayre of Candellmas vnto saynt Jamys Faire<sup>32</sup> & so from Faire to Faire by meanes wherof fewe byers do repayre vnto the said Citie betwene the said Faieres, so that the said aberdasshers & all other craftysmen of the seid citie haue small vtteraunce of their wares to their vndoyng, & that they be nott able to kepe their creditt with their creditours. And ferther they & euery of them saye that before the said Faire was begon & vsid moche fissue was brought vnto the said citie at dyvers & sondre tymes in the yere nowe all is staid vnto the said Faire, at whiche Straungers do bye & report<sup>33</sup> the moost part of the same by reson wherof ther is scarcytie left in the citie & the pryce therof aduanced to their great hyderaunce as itt appereth more at large by the bill of the said haberdasshers exhibitid vnto the said commissioners and nowe remaynyng in their custodie.

William  
Popley,  
gentillman.

TO THE SAID V<sup>th</sup> intergatorye Willyam Popley<sup>34</sup> gentillman of

<sup>31</sup> Sic, apparently for 'they.'

<sup>32</sup> That is, the Fair of the Abbot of Tewkesbury's cell of St. James, which took place at Whitsuntide (see Brystowe, Sheriff of, v. Mayor of, E, p. 156, n. 2).

<sup>33</sup> In the literal sense of 'reportare,' to carry away, a use not noticed in Murray's 'English Dictionary.'

<sup>34</sup> Perhaps a son of John Popley, or Poplay, who was bailiff in 1492 and mayor in 1510 (Barrett, pp. 681, 683). As this evidence proves, William Popley was born about 1494 at Bristol. The first mention of him in the 'Letters and Papers of Henry 8' shews that he was employed as king's messenger in July 1518, to carry to Dr. Knight, English ambassador to Margaret, duchess of Savoy, Regent of the Netherlands, then at Bruges, his 'diets,' or salary, amounting to 100*l*. (L. and P. Hen. 8, ii. p. 1478). He writes on January 15, 1522, from Bristol, asking Cromwell, then practisin; as an attorney, to act as such for the bearer of the letter, unnamed, 'in a matter he has before the King's council' (ib. iii. 1963). In the letter he mentions John Reepe, Roger Cooke, Hugh Elyott, of Bristol, and John Grene, names familiar to us in this document, as persons apparently known to Cromwell. He speaks also of meeting Cromwell at Candlemas, and the

letter generally suggests that Cromwell was familiar with Bristol and with its leading citizens. So little is known of Cromwell's early life that this connexion with Bristol, hitherto overlooked, is of importance, and it accounts for the fact that he afterwards, when already a person of influence at Court, secured for himself appointment as recorder of the town. Popley's familiarity with Cromwell at this time is evident from the fact that, writing on August 23, 1522, presumably from Bristol, he asks for news, and acquaints him with his intended marriage (ib. 2461). On September 27, when Popley dates his letter from Bristol, he asks Cromwell to 'do such diligence as ye may' that Mr. Eliott may answer by his counsel (ib. 2577). It would appear from the fact that in 1524 William Poplaye acted as procurator for Matthew Lang, bishop of Gurk, in the business of obtaining for him a grant of a pension on the resignation of his canonry in Salisbury Cathedral, that Popley was himself an attorney and that Cromwell was his London agent. This grant was with the assent of William Knyght, the present canon (ib. iv. 611). The conjunction of names suggests that this canon was Dr. Knyght, or Knight, the ambassador, who in the summer of 1524 appears to have been in England (ib. 463; cf. 645 and

5148), and who was an ecclesiastical pluralist. If this be so, Popley's selection as the bishop of Gurk's agent may have been a consequence of his visit to the Court of the Regent of the Netherlands, at which the Cardinal Bishop of Gurk was an influential diplomatist. Popley appears to have prospered sufficiently to have been able to expend 212*l.* 14*s.* on the purchase of the manor of Henton Blewett, Somerset, which in 1527, by the payment of an additional 40*l.*, he exchanged with the vendor, Henry Seward, for the manor of Stony Litleton, in the parish of Wellowe, in the same county (ib. 3607). In 1530 he is described as 'servant to Sir Thomas More,' then chancellor, and it would appear that he had in the interval been employed again abroad, since on October 22 of that year he delivered to the deputy of Lord Shrewsbury, the lord steward, certain diplomatic documents signed by the Emperor Charles 5 (ib. 6704). A letter of his dated December 9, 1532, mentions his purchase of 'a tenement,' apparently between Cirencester (Ciscetor) and Malmesbury (ib. v. 1623; cf. ib. vi. 492), where he fixed his residence. Cromwell had become in 1533 all-powerful at Court. His agents throughout the country kept him minutely acquainted with the occurrences in their respective neighbourhoods. In a letter of April 25 of that year William Popley, writing from Cirencester, gives him information of two cases of horse-stealing and of one of coining (ib. vi. 384). In return he asks the minister to use his influence to secure the election of his brother as abbot of Malmesbury (May 16, 1533, ib. 492). This brother was perhaps John Popley, who had on July 2, 1517, received a grant from the king of a chantry in the church of Portebury, five miles W.N.W. of Bristol (ib. ii. 3428). William Popley's recommendation proved ineffective, Robert Frampton succeeding Abbot Camme (ib. vi. 929, 51). From a letter to Cromwell of May 19, 1533, it appears that Popley had married Katharine, a daughter of Giles Bassett, of Yoley, Gloucestershire, a gentleman of estate, whom he desired to be excused from the costly honour of knighthood (ib. 509). Popley was assiduous in cultivating relations with the minister. On March 11, 1534, he sends him from Cirencester 'four lamprey pies to help out Lent' (ib. vii. 313). The fruits of his pertinacity presently became apparent. In October he is sending from London news to Lord Lisle, the deputy of Calais (ib. 1284). He was already, it is probable, resident with Cromwell, of whom he writes, in a letter of December 14 to Lord Lisle, as 'my master' (ib. 1540). A petitioner to Cromwell on February 14, 1535, speaks of Popley as 'your faithful servant'

(ib. viii. 210; cf. ib. 354). Cromwell evidently employed him on the details of legal business (ib. 210, 766; xii. i. 782). Popley also enjoyed a definite office, being clerk of the Privy Signet (see E. Coke, 2 Inst. 556), of which he enjoyed two-thirds of the profit, Cromwell reserving one-third to himself. Popley's share amounted to no less than 66*l.* 6*s.* 10<sup>3</sup>/<sub>4</sub>*d.* for the year ending Michaelmas 1535 (L. & P. ix. 478). The proportion shows Cromwell to have been a not ungenerous patron. Nobles, like Lord Lisle, hungry for abbey lands (ib. x. 339, 445), recognised the value of Popley's good word and ingratiated themselves with him by a 'fee' (ib. xi. 1256, 1311). On the other hand, the monastery of Kingswood, Wilts, retained his services with an annuity of 26*s.* 8*d.* for life (ib. xiii. i. 433). Upon a rumour of the Lord Chamberlain's (Lord Sandys) disgrace, Lisle's agent, Husee, applies to Popley for advice as to the prospects of Lisle's succeeding to his post (January 14, 1537, John Husee to Lord Lisle, ib. xii. i. 86, 195, 237; xii. i. 457). Popley had become rich enough early in 1537 to buy a lease of the manor of Iron-Acton, near Bristol, negotiating with the owner, Lord Lisle, for the purchase of the freehold (ib. 353, 354). On February 27 of the same year he obtained a lease from the Crown 'at 4*l.* 3*s.* 4*d.* a year and 12*d.* increase' of the farm of Cornecote, probably the modern Shorneote, Wilts, about three miles south of Cirencester (ib. xii. i. 539 [48]). He had also an office in Bristol which he obtained through Cromwell and served by deputy (ib. 875). This was, perhaps, a post in the customs (see xiii. ii. 467). In April 1537 he writes from 'St. Bartholomew's' to Thomas Avery, also in Cromwell's service, saying that his ague is 'on amendment,' but that two of his 'folks' having been buried of the plague, he cannot appear in 'my lord's presence' (ib. cf. xii. ii. App. 16). He suffered from ague again in the following July, which prevented him from transacting business for Lady Lisle (ib. ii. 424; cf. 570). He wrote from 'Hampsted' to Cromwell on August 23 asking permission, on the doctor's advice, 'to go and see his own country' (ib. 570). On the following November 12 he wrote from Bristol asking leave to return to Cromwell's service, since 'by exercise, he has recovered health' (ib. 1069). He paved his return to favour with a New Year's gift of 5*l.* in 1538 (ib. xiv. ii. p. 321), and was back at business in London in the following February (ib. xiii. i. 247, 248), but again at Cirencester in May (ib. xiii. i. 1098). Upon the dissolution of the Austin Friars at Bristol, he and Hary White, grocer, took possession of their 'stuff' for the king, September 10, 1538 (ib. ii. 319, 2), as also of that of the Grey



the aege of 1 yeres or there abowtes sworne & examyned saith that abowtes a seven yeres past he beyng seruant to the late Erle off Essex then beyng master of the Rolles,<sup>35</sup> certain burgesez of Bristoll beyng of his acquentaunce (whoys namys he remembreth nott) reparynge to hym, shewid hym of the greatt losse & decaye that the comons of Bristoll in grett nombre had susteyned by reson of the Faire that was holden at Candellmas, & that gretter decay was likely to ensue iff the same shuld contynewe and desiryd the said Willyam Popley to be a meane to his master for to putt downe & adnulle the same Faire who promisid them to do therin the best he coweld, and within short space after, the said Popley consideringe he had fryndly

Friars (ib. ii. 321, 2). Writing from Bristol on the following day, he reminds Cromwell of his 'suit about the Friar Austens,' doubtless for the grant of their house (ib. 325). He was employed by Cromwell in January 1539 in the delicate and fruitless mission of urging the Duchess of Norfolk, whose quarrels with her husband and children were a public scandal, to return to the duke (ib. xiv. i. 160). The fanaticism of Lady Lisle, mentioned elsewhere, and the suspicion that her husband sympathised with her hatred of the religious innovations, appear to have given rise in June 1539 to rumours aspersing Lord Lisle's loyalty. Richard Whiting, abbot of Glastonbury, was alleged to have spread these reports (ib. 1177). Whiting and Lisle had been on friendly terms, but the association was dangerous for Lisle, for Whiting's disaffection was known to the government, and in the following September he was committed to the Tower (ib. ii. 206). Lisle, apprehensive for his own safety, wrote from Calais to Popley for advice. Popley, who was 'going into those parts,' undertook to visit the abbot and obtain an explanation, recommending Lisle at the same time 'to let such ill tongues pass,' June 30, 1539 (ib. i. 1180). Popley was more hopeful than the event justified, for Lisle was arrested in the following May, though not, it would appear, in connexion with the slanders of which he complained. Mindful of his master's rapacity, Popley, as Cromwell's accounts show, yearly ingratiated himself with a gift of 5*l.* (ib. ii. p. 325), and in 1539 with 20*l.* for a favour granted to his cousin, Walter Pipard (ib. p. 326). But the reign of his patron, Cromwell, was over. On June 8, 1540, Popley wrote to Sir Edward Gorge pressing for payment of a debt of 40*s.* 8*d.*, and adding: 'I had never such need of money as now' (ib. xv. 761). Two days later Cromwell was arrested, and executed on July 28. Popley did not share

his misfortunes, for on March 14, 1541, the Privy Council wrote to him 'to bring all writings in his keeping concerning the matter of a Breton who complained that his ship was spoiled near St. David's in Wales' (ib. xvi. 616). From this it may be inferred that he had withdrawn from London, probably to his country house near Cirencester. He had, notwithstanding his letter to Gorge, saved money, for though on March 9, 1543, he obtained a licence to alienate three messuages, &c., in Cattanger, Somerset, to Thomas Abyngton (ib. xviii. i. 346, 19), he was able in July 1544 to purchase the freehold of the long-coveted house of the late Austin Friars in Bristol (ib. xix. i. 1035, 159). On the other hand, in May 1545 he sold the manor of Somerton Erley, Somerset, to John Wyse (ib. xx. i. 846, p. 428). His name does not afterwards occur in the Letters and Papers. Enough has been said to show that William Popley was to Cromwell what Cromwell had been to Wolsey. He was Cromwell's principal man of business. The sums recorded in the Letters and Papers as passing through his hands as presents from noblemen and ecclesiastics to his patron prove that he must have been brought into contact with the chief figures of the day and have enjoyed the minister's trust. Nevertheless, his name has been passed over in silence in the most recent 'Life of Cromwell,' that by Mr. R. B. Merriman (1902), as well as by the numerous contributors to the 'Transactions' of the Bristol and Gloucestershire Archaeological Society. He had a sister, Bridget Popley, a nun in the Priory of Ambresbury, who, on the Dissolution, was assigned a pension of 6*l.* a year (ib. xii. ii. 570; xiv. ii. 646, 2).

<sup>35</sup> Thomas Cromwell, M.R., October 8, 1534, to July 10, 1536 (J. Haydn, 'Book of Dignities' [ed. 1890], p. 388); L. & P. vii. 1352-3.



acquaintaunce with the parochians of Radclyff who had procured to haue the said Faire sent woord vnto them of the said requeest made vnto hym by the said burgeses, whe(r)vpon they sent vnto hym one Peers Cheritie, one of the head or cheiff of the parishe of Radcliff, and he said in dede, iff itt be losse to the towne itt is little proffit to the church & to prove the same shewid to the said Popley certayn bokes of accompt to declayre the same, and ferther said iff the Mayour & his brethern wold restore them to the money they had paid for the charges of the Faire they were contentid to surrender their interest therin, and bycause the suyte was nott folowyd by the said burgeses ther was no thinge ferther don therein and by reson the said Willyam Popley was borne in the said Citie of Bristowe & perceyvid by dayly experiaunce that the occupiers within the same do not so well increace as they haue don before the said Faire was kept by reson that all straungers that were wont wikely<sup>6</sup> to reparaire with many kindes of merchaundise especially with fische they tary nowe & comme all at ones to the Faire wher other Straungers haue the choyse & most part therof at their pleasure, yea & rather better chepe then the comens shall haue bycause they take & bye great quantitie at ones, & fewe of them that moost desier to haue the faire (if itt be trewly enserchid) be the better therby at the yeres end one peny.<sup>37</sup>

TO THE said v<sup>th</sup> intergatorye Robert Eliott of the eage of xl yeres or there abowtes, Fraunces Coderington,<sup>38</sup> Nicholas Thorne, John Smythe,<sup>39</sup> John Thorne, Richard Pryn,<sup>40</sup> John Brampton,<sup>41</sup> Willyam Joye,<sup>42</sup> Willyam Spratt,<sup>43</sup> Willyam Ballard,<sup>44</sup> Edward Pryn,<sup>40</sup> Thomas

Mer-  
chauntes.

<sup>36</sup> Weekly: note the French pronunciation given to i.

<sup>37</sup> The first of the three membranes on which these answers to interrogatories are written ends here.

<sup>38</sup> Francis Coderington of Frampton-on-Severn, probably the son of William Coderington by Mary Teste, who inherited the estate of Frampton. He married Margaret, daughter and co-heir of William Shipman, mayor of Bristol in 1533. He served as sheriff of Bristol in 1544. His will, dated August 10, 1557, describes him as a merchant of St. Werburgh's parish, Bristol. He left a son and heir, Giles (R. H. Coderington, D.D., 'Memoirs of the Family of Coderington'; B. and G., Arch. Soc. xxi. 339-40).

<sup>39</sup> John Smyth, Smythe, a commissioner in 1544, to take surrender of the hospital of St. John (L. and P. xix. i. 157), mayor 1554. He died in his mayoralty, and was buried in St. Werburgh's Church.

A large, handsome Gothic tomb erected to his memory and that of Joan, his wife, with brass plates, engraved, showing their seven sons and two daughters, was destroyed in the rebuilding of the church in the eighteenth century (Barrett, pp. 483-4).

<sup>40</sup> Sheriff, 1536 (Barrett, p. 684). Probably one of the family of the Prynnes of Henbury, Gloucestershire, five miles from Bristol, of which Edward Prynne, mentioned below (sheriff of Bristol in 1549, and great-grandfather of the Puritan controversialist William Prynne), was a member (see the B. and G. Arch. Soc. 'Trans.' xii. 305, 6). The will of Richard Pryn of Bristol was proved in 1558 (J. C. C. Smith, 'Index to Canterbury Wills').

<sup>41</sup> Sheriff of Bristol, 1534 (Barrett, p. 684).

<sup>42</sup> Willyam Joye is presumably the William Joy who was sheriff in 1538 and mayor in 1549 (Barrett, p. 684). The

Tyson,<sup>45</sup> & Willyam Carre<sup>46</sup> merchauntes of the said Citie of Bristol sworne & examyned they & euery of them do say that the contynuaunce of the said Faire at Candellmas shalbe the decaye of merchauntes & navye of the port of the said citie, by reson that all straungers aswell of the parties beyond the sees as others ayenst<sup>47</sup> that season repayre thether with all kyndes of merchaundise which they sell to other straungers as at that tyme do resort thether, by meanes wherof the merchaundise whiche is browght to the said citie by the said merchauntes in their owne shippis haue nott the vtteraunce as they haue had before the tyme the said Faire was vsid and kept, and where as ther grett shippes haue customably made towe or thre viages in the yere, nowe by reson of small vtteraunce of their warres & merchaundise the<sup>48</sup> make but one viage in the yere, which is decay of their great shippis wherin is reisid & maynteyned many good Maryners, and in the decaynge of the navye of grett shippis decayth the merchauntes & a great nombre of maryners, and thus they decaynge by whom (they say) the more part of all artificers & comons of the said citie ar relyvyd and maynteyned must neades decay & enpouerisshe.

And ferther vpon their othez the<sup>48</sup> saye that such occupiers within the citie of Bristowe as haue no other lyvyng but by byenge & sellyng of fisshe & other commodities out of Irland by contynuaunce of this Faire must nedes impoverishe by reson that where yn tymes past before the said Faire was vsid, all maner of Straungers did resort with their bootes<sup>49</sup> and pikardes<sup>50</sup> to the said citie at all Tyme in the yere, so that at their handes the comons of the said citie<sup>51</sup> bowght their wares at soche resonable prises that they might sell itt ayen to

name appears in the Bristol Museum MS. Calendar as Jaie, and in the Fox MS. sub anno 1549 as 'Wm. Jay, apothecary' (B. and G. Arch. Soc. 'Trans.' xix. 132, 3). The will of Willyam Joye, of St. John Baptist, Bristol, was proved in 1556 (J. C. C. Smith, 'Index,' &c.).

<sup>43</sup> Sheriff, 1540 (Barrett, p. 684).

<sup>44</sup> Sheriff, 1542 (ib.). Acted as proctor, being churchwarden, for the Church of St. Stephen, Bristol, in the matter of the inventory of Church goods, May 24, 7 Ed. 6 (1553) (B. and G. Arch. Soc. 'Trans.' xii. 90).

<sup>45</sup> Thomas Tyson, sheriff, 1552 (Barrett, p. 685). The name is said to represent the Norman Tesun, or Tison, a family which held lands in England after the Conquest, but were hereditary seneschals of Normandy (B. and G. Arch. Soc. 'Trans.' xii. 284). T. T. acted for John Greneyas a proctor for the Church of St. Leonard, Bristol, in the matter of the inventory of church goods,

May 23, 7 Ed. 6 (1553) (B. and G. Arch. Soc. 'Trans.' xii. 94).

<sup>46</sup> Sheriff 1545, mayor 1560 (Barrett, p. 685).

<sup>47</sup> Against, towards.

<sup>48</sup> Sic, as frequently in this volume.

<sup>49</sup> Boats.

<sup>50</sup> 'Picard, a large sailing boat or barge, formerly used for coast or river traffic; cf. Act 34 & 35 Hen. 8, c. 9, § 1 (1543): 'Picardes and other greate botes with fore mastes of the burden of xv toon and so to xxxvjtoone. § 2. That noperson or persones . . . shall embote or lade . . . any Wheate . . . in any picarde bote or other Vessell at any creke pille banke or elswere upon the Severne Streame betwene the keye of the Citie of Gloucestre and the saide Citie or Towne of Bristoll' (J. A. H. Murray, 'Engl. Diet.').

<sup>51</sup> Substituted for 'towne,' struck through.

those that dwellith within the lond or countre at all tymes when they resortid to this said citie at a convenyent pryse with resonable Gaynes Towardes their lyvyng<sup>52</sup> which was comonly euery monith in the yere where as now by meanes of this Faire the Straunger seller & the Straunger byer do appoynt to mete at the said faire & there do bargayne to the vndoyng & hynderaunce of the said occupiers and thowgh straungers do comme to the said citie a moneth or Towe before the said Faire yett they will nott vtter their wares vnto the inhabitauntes of the same citey vntill the Faire and then sell itt rather to straungers to the vtter vndoyng of the said citie as more at large ytt doth appere by their byll exhibited to the said commissioners & in their custodye.

TO THE seid v<sup>th</sup> Intergatorye Thomas Pacy thelder of the aeg<sup>e</sup> of Mercers. lx yeres & more, Wylliam kelke, Willyam Pikes,<sup>53</sup> John Mathewe,<sup>54</sup> Gyles Dane,<sup>55</sup> mercers of the said citie of Bristowe in the name of all other mercers of the same citie sworne & examyned, saye that the said Faire at Candellmas doth them greatt hurt and hynderaunce, That where itt was accustomyd from the Feest of all sayntz<sup>56</sup> vnto eester to be their best tyme to gete their lyvyng, now by reson of the said Faire the Straungers whiche were wont to be seruyd of wares betwene<sup>57</sup> the feest of al sayntz & eester by they said mercers be now seruyd at that Faire by other Straungers & londoners,<sup>58</sup> So by that meanes the said mercers haue litle vtteraunce the whole yere to their hynderaunce & vndoyng as itt dothe likewise appere by their byll exhibitid to the said commissioners.

TO THE said v<sup>th</sup> intergatorye Richard Tunnell of the aeg<sup>e</sup> of Drapers. lx yeres & above, Willyam Carye,<sup>59</sup> Robert Saxon,<sup>60</sup> Walter Robertes,<sup>61</sup>

<sup>52</sup> See Introduction, p. xxxix.

<sup>53</sup> William Pikes, Pykes, or Pyckes, sheriff 1532; mayor 1548 (Barrett, pp. 684-5). The will of William Pykes, of St. Thomas, Bristol, was proved in 1550 (J. C. C. Smith, 'Index' &c.).

<sup>54</sup> The name, presumably the same individual, appears in Barrett, p. 685, sub anno 1548, when he was sheriff, as Mathews. In the Bristol Museum MS. Calendar, sub anno 1549, the name is given as Matho, and in the Fox MS. sub 1548 as Mathew (B. and G. Arch. Soc. 'Trans.' xix. 132-3).

<sup>55</sup> There was a Bristol family named Deane, of which the pronunciation was probably Dane, to which this person may perhaps have belonged. William Deane was bailiff, according to the Fox MS., in 1546, the name being given in the Bristol Museum MS. as Dain (printed by mistake Dam) ib. pp. 122-3j.

<sup>56</sup> November 1.

<sup>57</sup> 'All sayn' struck through.

<sup>58</sup> The mention of boats and picards has already indicated that the competition of which complaint was made was that of English, not of alien, merchants.

<sup>59</sup> Willyam Carye, Carey, or Cary, sheriff 1531, mayor 1546 (Barrett, pp. 684-5).

<sup>60</sup> This may be conjectured to be the same person as Robert Saxse, sheriff 1541, mayor 1556 (Barrett, pp. 684-5). The name is given sub 1542 in the Bristol Museum MS. Calendar as Saxie, and in the Fox MS. as Robert Saxey, draper, which designation sufficiently identifies him with the Robert Saxon, draper, of this MS. But he himself appears to have spelt it Saxei, for he signs as Robert Saxei, alderman, to the memorial, of 1560, against Bishop Cheyney mentioned above (n. 26).

<sup>61</sup> Robertes, or Roberts, was a not



Rowlond Cowper,<sup>62</sup> Thomas Sheward,<sup>63</sup> Symond Dawlting,<sup>64</sup> Richard Carye,<sup>65</sup> Richard powell,<sup>66</sup> drapers of the said Citie off Bristowe sworne & examyned, saye that before the said Faire was kept & vsyd they might vtter & sell yerely to men of Irland & wales & other parties of this Reallme betwene Candellmas & Easter the nombre of towe hondred clothes or there abowtes euery of them and nowe sith the said Faire was kept they cannot sell yerely betwene Candellmas & easter xx<sup>ti</sup> clothes to their great hynderaunce & lossez as itt appereth more at large by their byll exhibitid to the said commissioners.

Cappers.

TO THE said v<sup>th</sup> intergatorye<sup>67</sup> Jamys Browne, John Jenkyns, Michaell Ketyll, John Warren, Thomas Justice, John awellys,<sup>68</sup> Thomas Joyce, Richard Sowdeley, Markes Mylyan, Willyam Savage,<sup>69</sup> John Davis,<sup>70</sup> Thomas Payntour, Jamys Whitynton,<sup>71</sup> Robert Sede, John Wygans thelder, John Wigans the younger, Rise ap owen, Willyam mason, Thomas Wolff, Richard Gruney, Cristofer Saunders, Thomas Savage, Morgan Sowper, Richard knight Cappers of the said Citie of Bristowe Sworne & examined, saye that the said Faire kept the space of xiiij yeres & more is preiudicyall & hurfull<sup>48</sup> vnto them, that where at that Faire Cappers of london & other foren cappers of this reallme<sup>72</sup> a grett nombre do resort to that Faire with cappys & there do sell the same by meanes wherof the said cappers of Bristoll haue lesse vtteraunce of their cappys to their great lossez & hynderaunce & to

uncommon name in the neighbourhood of Bristol. I have not been able to find any particulars of this person, who did not attain civic dignity. But see n. 17, *supra*. A John Roberts was sheriff in 1562 and mayor in 1578 (Barrett, p. 686).

<sup>62</sup> Sheriff, 1537 (*ib.* p. 684). The will of Rowlande Cowper, of St. Marie Porte, Bristol, was proved in 1555 (J. C. C. Smith, 'Index' &c.).

<sup>63</sup> Sheriff, 1550 (Barrett, p. 685).

<sup>64</sup> There was a man named Dalton, living in St. Ewen's parish in 1514, but none of the name appears to have attained civic honours (B. and G. Arch. Soc. 'Trans.' xv. 294).

<sup>65</sup> One of the signatories in 1568 to the memorial against Bishop Cheyney (see n. 26, *supra*).

<sup>66</sup> The names appear to be marshalled with some regard to civic dignity. I can find no particulars of this person.

<sup>67</sup> The following list of twenty-four names indicates the importance of the cappers' industry in Bristol. It is a sign of their inferior status that very few of them attained civic dignity.

<sup>68</sup> John awellys is presumably the John

A Wellis who was sheriff in 1546; but he was never mayor (Barrett, p. 685). In the 'Index to Canterbury Wills,' sub 1553, is 'Welles, John — Bristol, sentence concerning account.'

<sup>69</sup> William Savage acted as proctor for the Church of St. Peter, Bristol, in the matter of the inventory of church goods, on May 24, 7 Ed. 6 (1553) (B. and G. Arch. Soc. 'Trans.' xii. 92).

<sup>70</sup> John Davis, sheriff, 1523 (Barrett, p. 684). In the Fox MS. Calendar the name is given as David (B. and G. Arch. Soc. 'Trans.' xix. 131). A John Davies acted as proctor for the Church of St. Mary Redcliff, in the matter of the inventory of church goods on May 24, 1553 (*ib.* xii. 97). As, however, the interest of the parishioners of the church would be to continue the fair, this was probably not the same person.

<sup>71</sup> James Whitynton, or Whittington, acted as proctor for the Church of St. Lawrence, Bristol, in the matter of the inventory of church goods on May 24, 7 Ed. 6 (1553) (*ib.* 87).

<sup>72</sup> Note the use of the word 'foren' as not equivalent to alien, but meaning not free of Bristol.

the impoverisshinge of iij or iiij hondred poore people as carders spynners & knyitters which before the tyme the said Faire was kept & vsyd had their lyvynges by the <sup>73</sup> said cappers of Bristowe, which for the moost part nowe are putt from their worke by reson that they the said cappers of Bristowe cannot haue sale ne <sup>74</sup> vtteraunce of their wares as they had before the tyme of the said <sup>75</sup> Faire was vsyd & kept AND Ferther vpon their said othes they say that at the said Faire all kyndes of fische browght <sup>76</sup> which ar most necessary for the Citezyns there ar engrossed & caried away by Straungers, so that in the tyme of lent thenhabitauntes of the said Citie hath great Scacytie <sup>78</sup> which is to their great costes & charges as by their byll presented to the said commissioners itt doth appeare.

Item as to the vij<sup>th</sup>, viij<sup>th</sup>, viij<sup>th</sup>, ix<sup>th</sup>, x<sup>th</sup>, xj<sup>th</sup>, xij<sup>th</sup> & xiiij<sup>th</sup> intergatories all the above namyd persones aswell occupiers as craftysmen sworne & examined affirmeth all and euery of the said intergatories to be trewe as they be writtyn and conteyned in the same intergatories directid vnto the said Commissioners, and enclosid within their commission.<sup>77</sup>

ITEM AS TO THE XIIIJ<sup>ne</sup> INTERGATORYE all the persons aboue namyd aswell occupiers as craftysmen sworne & examined deposith & saith that the said intergatorye is trewe as itt is conteyned in the same intergatorie directyd vnto the said commissioners as itt shall more evidently appere by a boke of accompte presented vnto the said commissioners at the day of their Session whiche boke is filed vnto these depositions.

Item as to xv<sup>ne</sup> & xvj<sup>ne</sup> intergatories all the afore namyd persons occupiers & craftsmen sworne and examined deposith saye & affirmethe the said towe intergatorie to be trewe as they be conteyned in the same intergatories directid vnto the said commissioners.

Paule Brystoll.

John Seynt low.

John Ken.

(Membrane 1 indorsed)

Concernyng the  
Towne of Bristoll.

(In modern hand)

Bristol, City of.

<sup>73</sup> A fault in the parchment leaving a large oval hole, apparently cut out before the document was written, so that nothing is lost.

<sup>74</sup> Nor.

<sup>75</sup> This word interlined.

<sup>76</sup> The words 'to the Faire' struck through.

<sup>77</sup> Here ends the second membrane.

D.<sup>1</sup> Here after folowith the Recettes of the Churche londes of  
owr lady of Redclyff within the towne of Bristowe.  
Recettes by the yere.

Item in pile Strete by the yere . . . . .	iiij <sup>li</sup> ij <sup>s</sup> iiij <sup>d</sup> .
Pyttes Rent by the yere . . . . .	iiij <sup>li</sup> xv <sup>s</sup> iiij <sup>d</sup> .
Redcliff hyll by the yere . . . . .	vj <sup>li</sup> iiij <sup>s</sup> iiij <sup>d</sup> .
Bleckars Rentt by the yere . . . . .	iiij <sup>li</sup> v <sup>s</sup> iiij <sup>d</sup> .
Stauntons Rent by the yere . . . . .	xxiiij <sup>s</sup> .
Redclyff strete by the yere . . . . .	xviiij <sup>li</sup> vij <sup>s</sup> iiij <sup>d</sup> .
Seynt Thomas strete & lane by yere . . . . .	vj <sup>li</sup> ij <sup>d</sup> .
Haverynges <sup>2</sup> Rent by the yere . . . . .	iiij <sup>li</sup> xix <sup>s</sup> viij <sup>d</sup> .
Temple Strete by the yere . . . . .	xi <sup>s</sup> .
Seynt Austens back <sup>3</sup> by the yere . . . . .	xij <sup>s</sup> vj <sup>d</sup> .
Summa totalis Recettes of the yerely	
Church landes . . . . .	xlviij <sup>li</sup> ij <sup>s</sup> .

Here after foloweth the costes And paymenttes  
of the Churche.

In primis paid to a lady prest <sup>4</sup> for his sellary by  
the yere . . . . . vj<sup>li</sup>.  
Item paid to the ij parishe clerkes <sup>5</sup> for ther sellary . viij li. xiiij<sup>s</sup> iiij<sup>d</sup>.  
Item paid to John Beche <sup>6</sup> in parte of his wages  
For the churche parte . . . . . xxx<sup>s</sup>  
Item paid to the box keper <sup>7</sup> for his sellary by yere . . iiij li. vij<sup>s</sup> iiij<sup>d</sup>.

<sup>1</sup> S.C.P. Hen. 8, vol. vi. f. 90. A paper document of six pages.

<sup>2</sup> A John Havering, or Haveringe, was bailiff of Bristol in 1389, and sheriff in 1393 (Barrett, p. 677). He was one of 'the forty-two good men elected by the Commonalty of the town of Bristoll for the government of the same town' in 1410 ('Little Red Book,' i. 137). He may have left house property to the Church.

<sup>3</sup> The name given to the strip of land running along the west bank of the Frome, as may be seen in the map of Bristol in 1480, which is the frontispiece of Hunt's 'Bristol.'

<sup>4</sup> To serve the altar of Our Lady.

<sup>5</sup> The salary of 4*l.* 6*s.* 8*d.*, when compared with that of a priest, seems high; but on the position and duties of parish clerks see p. 135, n. 35.

<sup>6</sup> Described below as 'clerk.' He witnessed the will of Joice Yonge, of the parish of St. Mary Redcliff, dated May 4, 1530, but was apparently not at that time in

orders (B. and G. Arch. Soc. 'Trans.' xv. 235). See further p. 274 n. 37, *infra*.

<sup>7</sup> The keeper of the poor-box, who would act as almoner, an office of trust. By the 'Acte for punysshement of sturdy vacabundes and beggers,' passed in 1536, 27 Hen. 8, c. 12, collections were ordered for the poor. By § 18 it was provided that 'the money of all and euery the forsaide free and charitable colleccions shalbe kepte in the commen coffre or boxe standing in the Churche of every parisshe, or els it shalbe committed unto the handes and saffe custodie of any other suche good and substantiall trustie man as they can agree upon.' It was also provided by § 17 'that all and every Bailiffe Constable Church Wardens or others the Collectours of the said almes which shall at any tyme forbere their owne businesse and labour, and shall travaill or take any paynes in and about the execucion of any parte of this present acte shall have and take for his and their so doyng suche competent wages of the Money of the said



Item paid to the sexton for he <sup>8</sup> sellary . . . . .	iiij <sup>s</sup> .
Item paid to the lawndress for the yere . . . . .	ij <sup>s</sup> .
Item paid for the Redyng of the bedroll <sup>9</sup> . . . . .	ij <sup>s</sup> .
Item paid more in finale Sommys as it apperith by the booke . . . . .	x <sup>s</sup> v <sup>l</sup> ob.
Summa . . . . .	xx <sup>ti</sup> li. ix <sup>s</sup> j <sup>d</sup> ob.

## Costes and Paymentes of the wex makynges.

Item payd to maister Anthony Payne <sup>10</sup> wexmaker for the handy werk for the makyng of hit all the yere . . . . .	liij <sup>s</sup> iiiij <sup>d</sup> .
Item in costes at dyuerse tymys Att the makyng of all the lyght . . . . .	xvj <sup>s</sup> viij <sup>d</sup> . <sup>11</sup>
Item payd for lampe Oyle Alle the yere . . . . .	xj <sup>s</sup> .
Corpus Christi costes. Item in costes apou corpus christi day <sup>12</sup> . . . . .	xij <sup>s</sup> xj <sup>d</sup> .
Summa . . . . .	iiiij <sup>li</sup> xiiij <sup>s</sup> xj <sup>d</sup> .

Renttes Resolute.<sup>13</sup> Item payd to old Seynt Awstens  
church<sup>14</sup> for the howse by hynde the white  
Fryers<sup>15</sup> . . . . . xij<sup>d</sup>.

common colleccions as by the discrecions  
of the Maier Aldermen Governour Bailiffe or  
Justices of peace and others of the parisshe  
shalbe thought good and reasonable.'

<sup>8</sup> Sic for 'his.'

<sup>9</sup> Bead-roll, a list of persons to be  
specially prayed for (J. A. H. Murray,  
'Engl. Dict.'). In N. H. Nicolas, 'Testa-  
menta Vetusta' ([1826] ii. 643), in the  
will of Thomas Tretherffe, esquire, dated  
September 20, 20 Henry 8 (1528), the  
testator bequeaths 20s. for repairs, &c., to a  
chapel, 'and for the name of the said  
Thomas to be put upon the Beadroll of the  
said Chapel.' The reader of the bead-roll  
was a cleric. Robert Fabyan, in his will  
dated July 11, 1511, provided 'that myn  
executrice . . . geve unto eueryche curat  
or curatts deputie of the forenamed ix  
parissches iv<sup>d</sup> to thende that my soule and  
the soules above written may be remem-  
bered in their parisshe bede rolle by the  
whole space of a yere after' (ib. p. 504).  
See also p. 1, n. 2.

<sup>10</sup> Anthony Payne, or Pain, sheriff  
1533 (Barrett, p. 684), called by the abusive  
William Ryppe 'that lubber Antony  
Payne' (L. and P. Hen. 8, xiv. i. 184).  
Presumably for candles.

<sup>11</sup> This item apparently represents the  
cost of the raw material, as distinguished  
from 'the handy werk.' The phrase would

seem to imply that no light other than that  
of candles was used, but the next item is  
for oil.

<sup>12</sup> Annually observed on the Thursday  
after Trinity Sunday. Instituted in 1264  
by Pope Urban IV. (J. J. Bond, 'Handy-  
book of Dates' [ed. 1889], p. 152). A bill of  
these costs occurs in 'the MS. crypt book'  
of St. Nicholas Church, dated 1534, as  
follows:

'Item paid to viij priests to a procession on Corpus Christi day at iv <sup>d</sup> a piece of them; amount . . . . .	ij <sup>s</sup> viij <sup>d</sup>
Paid to ij clerks . . . . .	vij <sup>d</sup>
Paid to the children that singeth . . . . .	vij <sup>d</sup>
Paid to children to bear iv candle- sticks, ij sensers and the ship . . . . .	vij <sup>d</sup>
Paid for bearing of the cross . . . . .	iiiij <sup>d</sup>

(J. F. Nicholls and John Taylor, 'Bristol,'  
ii. 163).

<sup>13</sup> 'Redditus resoluti be rents issuing  
out of the manors &c. to other lords' &c.  
(Sir E. Coke, 2 Inst. 19).

<sup>14</sup> The Abbey of St. Augustine was  
surrendered to the king in 1538, and by  
letters patent of June 4, 34 Hen. 8 (1542),  
constituted the Cathedral Church of the  
Holy Trinity (J. F. Nicholls and J.  
Taylor, 'Bristol,' ii. 65). It is perhaps  
called 'old' with reference to its previous

Item payd to the chambre<sup>16</sup> of bristow for langabull<sup>17</sup>  
 for the white howse by the white fryers . . . . xij<sup>d</sup>.  
 Item payd to Arthure of clopton<sup>18</sup> for the greate  
 howse apon Redelyffe hyll . . . . viij<sup>d</sup>.<sup>19</sup>  
 Item payd to the howse of Kynton<sup>20</sup> for the Tene-  
 ment that Robert Sawbrige hylde<sup>21</sup> . . . . iiij<sup>s</sup>.  
 Item payd to Robert Felande for the whole yere for  
 the parsonage of bedemystre<sup>22</sup> . . . . x<sup>s</sup>.  
 Summa . . . . . xvj<sup>s</sup> viij<sup>d</sup>.  
 Costes off Obbettes.<sup>23</sup> Item paid for Grywoddes<sup>24</sup>  
 obbett . . . . . iiij<sup>s</sup>.  
 Item paid for pyttes obbett heire<sup>25</sup> . . . . xij<sup>s</sup> iiij<sup>d</sup>.

dedication, or, it may be, by way of distinction from the Church of St. Augustine the Less, built by the abbot in 1235 (ib. 60). Leland describes the latter as 'St. Augustines, a Paroche Church on the Grene by the Cathedrale Church' ('Itinerary' [2nd ed. 1744], vii. i. f. 69, b).

<sup>15</sup> 'The White Friers stode on the right Rype of Frome agayn the key' (Leland, 'Itinerary,' vii. i. 70 a). 'The White Freres Places ys very fair' (ib. v. f. 64). These friars were of the Carmelite order. The friary occupied the site of the 'great house,' subsequently Colston's school, on St. Augustine's Back.

<sup>16</sup> See Brystowe, Sheriff of, v. Mayor of, A, p. 143, n. 5.

<sup>17</sup> 'Land-gable is a Tax or Rent issuing out of Land, according to Doomsday. Census praedialis vel tributum quod a praediis colligitur,' that is, says Spelman, 'a penny for every house. . . . This Landgavel or Landgable in the Register of Doomsday was a Quit Rent service for the Site of a House, of the Land whereon it stood, the same with what we now call Ground-rent' (J. Cowel, 'Interpreter,' s.v. Land-gable).

<sup>18</sup> There was a family of Clopton, of Clopton-on-the-hill, Gloucestershire, of which the pedigree from 1238 to 1471 is to be found in the B. and G. Arch. Soc. 'Trans.' xiii. 162-72. The name of Arthur does not occur, but it did not become common in England till after the accession of Henry 7, who gave it to his eldest son. This Clopton is a hamlet of Mickleton, four miles N.N.E. of Chipping Campden (S. Rudder, 'Hist. of Gloucestershire' [1779], p. 546).

<sup>19</sup> Presumably also a ground-rent.

<sup>20</sup> Quenington, or Queinington, S.E. Gloucestershire, four miles N. of Fairford.

Here there was a preceptory of Knights Hospitallers, which, having been suppressed, was at this time in the hands of the king (T. Tanner, 'Notitia Monastica' [1741], p. 148). Robert, Earl of Gloucester, who died in 1147, gave a part of his manor of Bedminster, afterwards known as Temple Fee, in Bristol to the Templars (Dugd. 'Monast.' vi. 838; B. and G. Arch. Soc. 'Trans.' xviii. 285). The writer of this paper in the 'Transactions' is shewn by this entry to have been mistaken in his assumption that this estate belonged to the preceptory of Templecombe, Somerset, and not to Quenington.

<sup>21</sup> Robert Sawbridge, Salbrige, Sailbrige or Sailbridge, was sheriff in 1519 (Barrett, p. 684) (B. and G. Arch. Soc. 'Trans.' xix. 130, 131).

<sup>22</sup> The churches in the manor of Bedminster were, besides St. Mary Redcliff, St. Thomas and Holy Cross. Qu. whether R. F. was grantee of the last named, and whether the parish of St. Mary rented the parsonage from him.

<sup>23</sup> 'Obit; a ceremony or office (usually a mass) performed in commemoration of or on behalf of the soul of a deceased person (especially a founder or benefactor of some institution) on the anniversary or other mind-day of his death; a yearly (or other) memorial service' (J. A. H. Murray, 'Engl. Dict.').

<sup>24</sup> Probably John Gaywodde, bailiff in 1460 and sheriff in 1467 (Ricart's 'Kalendar,' p. 44). No such name appears in the Chantry Certificate of Redcliff. See B. and G. Arch. Soc. 'Trans.' viii. 244.

<sup>25</sup> Here—that is at Redcliff, as distinguished from that at St. Thomas's mentioned in the next entry. Among

Item paid for pyttes <sup>23</sup> Att Seynt Thomas church <sup>27</sup>	
the same day . . . . .	xiijs iiij <sup>d</sup> .
Item paid for bleckers <sup>28</sup> obbitte . . . . .	xvijs viij <sup>d</sup> .
Item paid for burtons obbite <sup>29</sup> . . . . .	vjs viij <sup>d</sup> .
Item paid for blanckes <sup>30</sup> obbitte . . . . .	iijs ix <sup>d</sup> .
Item paid for the generall mynd for all good doars . . . . .	vjs ix <sup>d</sup> .
Summa . . . . .	iiij <sup>li</sup> vjs viij <sup>d</sup> .
Summa to costes & paymentes Rent	
Resolute & obbettes . . . . .	xxx li. vjs ij <sup>d</sup> ob.
Summa vacacionis <sup>31</sup> . . . . .	lvjs.
Summa Reparacionis . . . . .	lvjs.
<sup>32</sup> Summa totalis vacacionis . . . . .	ix <sup>li</sup> viijs iiij <sup>d</sup> .
Summa totalis Reparacionis . . . . .	vij <sup>li</sup> xv <sup>s</sup> x <sup>d</sup> .

MSS. formerly belonging to the Church of St. Mary Redcliff is a 'Memorandum that the Procurators of our Lady Church of Redcliffe and their successory procurators of the said Church for the time being be bound to kepe yearly one Obit for the soul of Master Nicholas Pytte, late time vicar of the said Church of Redcliffe . . . in the Octaves of Easter Day' (Nicholls and Taylor, 'Bristol,' ii. 209). The will of Nicholas Pittes, clerk, St. Mary Redcliff, Bristol, was proved in 1497 (J. C. C. Smith, 'Index to Canterbury Wills'). 'Pyttes rent' of 3*l.* 15*s.* 4*d.*, the second of the two receipts above mentioned, was doubtless the source from which the expense of this obit was paid.

<sup>26</sup> A chantry called Burton's Chantry was founded in St. Thomas's Church under the will, dated March 21, 1454, of John Burton, by Nicholas Pittes, or Pytts, who was a clerk in orders (B. and G. Arch. Soc. 'Trans.' viii. 234, n. 2; xv. 232, n. 1). See also G. Pryce, 'Memorials of the Canynges Family' [1854], pp. 233-4. No mention is made of Pyttes' obit in the Chantry Certificate of St. Thomas, but it is well known that before the dissolution of chantries took place much property was made away with, as is complained in the preamble of the 'Acte for dissolucion of Colledges' (37 Hen. 8, c. 4) passed in 1545. John Burton, or Burtone, was sheriff in 1418, mayor in 1423 and 1429 (Barrett, pp. 6-8, 9). His will was proved, as of St. Thomas the Martyr, Bristol, in 1455 (J. C. C. Smith, 'Index to Canterbury Wills').

<sup>27</sup> For St. Thomas's Church see A, p. 237, n. 3, *supra*.

<sup>28</sup> There is no mention of his obit in the Chantry Certificate of St. Mary Redcliff, in B. and G. Arch. Soc. viii. 244; but near Canynges' monument is a stone

inscribed 'Hic jacet Joannes Blecker, pandoxator, cujus animæ propitiatur Deus,' and Barrett adds (p. 582): 'This brewer (pandoxator) might probably be another servant of Mr. Canynges, for he orders by deed penes me that his Obiit should be kept in the chapel of St. Catherine.'

<sup>29</sup> Simon Burton, or Bourton, or de Burton, seneschal in 1290, mayor in 1291, 1294, 1296, 1302, 1304, and 1305 (Barrett, p. 673). He is said to have built the north porch of St. Mary Redcliff (B. and G. Arch. Soc. 'Trans.' xv. 33). About 1292-4 he built an alms-house in the Long Row, in the parish of St. Thomas, called after his name, and here he was buried (J. Leland, 'Itinerary,' vii. ii. f. 71 b; Barrett, pp. 569, 612, 673). This obit is not mentioned in the Chantry Certificate of St. Mary Redcliff.

<sup>30</sup> I have failed to find any person of this name. It cannot stand for Edmond Blanket, or Blankett, for his chantry is returned to the Chantry Commissioners of 1548 as being in the Church of St. Stephen (B. and G. Arch. Soc. 'Trans.' viii. 243). There was a Thomas Blanket, who was bailiff in 1340 and 1341 (Barrett, p. 675), and is said to have introduced from Flanders the woollen rug still called by his name (Nicholls and Taylor, 'Bristol,' ii. 193). There were others of the same name (B. and G. Arch. Soc. 'Trans.' xix. 224, 245, 273). Edmond Blanket was bailiff in 1349 (Barrett, p. 675).

<sup>31</sup> According to Du Cange ('Glossarium' [ed. Parisiis, 1846], s.v. vacatio), this was a payment known also as 'altarium redemptio,' made to the bishop, in the case of an appropriated church, by the monks, on change of an incumbent, analogous to reliefs in lay tenures. Vide *id.* sub Altare 6, Altarium Redemptiones.

<sup>32</sup> This and the entry following are by



Here After folowyth the Recettes of William Canynges chauntry founded in the church of our lady of Redelyff in Bristowe.

Summa totalis Recettes by the yere of Canynges

londes . . . . . xxxvij<sup>li</sup> viij<sup>d</sup>.

Here after folowith the paymentes of Wylliam Canynges<sup>33</sup> chauntrie found<sup>34</sup> in the church of our lady of Redelyff within the towne of Bristow

In primis payd to ij chauntry prestez for ther sellary

by the yere . . . . . xiiij li. vj<sup>s</sup> viij<sup>d</sup>.<sup>35</sup>

Item payd to the sayd ij prest<sup>34</sup> for brede wyne and

washyng for the yere . . . . . v<sup>s</sup>.<sup>36</sup>

Item payd to John Beeche clerk<sup>37</sup> for his sellary by

the yere . . . . . iiij li.

themselves on the dorse of a leaf bound up in sequence to the above, but their place is doubtful.

<sup>33</sup> William Canynges, the celebrated merchant prince of Bristol, born about 1399, third son of John Canynges, merchant of Bristol, by Joan Wotton his wife. William Canynges the elder, his grandfather, was a wealthy cloth manufacturer and shipowner, six times mayor and thrice member for the town in Parliament. William Canynges the younger was bailiff in 1432, sheriff in 1438, and mayor in 1441, 1449, 1456, 1461, and 1466. He was returned for Bristol to Parliament in 1451 and 1455. He was a Yorkist, and entertained Edward 4 in his house in Redcliff Street, which yet stands. He rebuilt the greater part of St. Mary Redcliff, where he was buried. In 1467, after the death of his wife, he took orders and became dean of the collegiate church of Westbury-on-Trim, Gloucestershire. He died in 1474. He was an ancestor of the statesman, George Canning ('Dict. Nat. Biog.'). His will, dated November 12, 1474, is summarised in G. Pryce, 'Memorials of the Canynges Family' [1854], pp. 259-67).

<sup>34</sup> Sic.

<sup>35</sup> This sum works out at 6*l.* 13*s.* 4*d.* for each priest's salary, which tallies with an account of 1475 (Pryce, p. 332). But this makes ten marks, not nine, as ordered by his composition. See B, p. 252, n. 29, *supra*. By his will certain lands and tenements, in the event of the decease of his niece, Isabella Canynges, without issue, were to be sold by the mayor and corporation, and half the money raised to be devoted to the support of his two chauntries in Redcliff Church, the other

half to be delivered to the chamberlain for the use of the town of Bristol (Pryce, pp. 262, 267). The Chantry Certificate of 1548 returns the salary of each priest at 6*l.* 9*s.* 2*d.*, a slight fall, the more remarkable in that rents and prices had risen since the previous century, but perhaps to be accounted for by the exclusion of payment of the rent of their chambers, as mentioned below, which brings it up to 6*l.* 15*s.* 10*d.* each. The total value of the lands and tenements belonging to the chantry was returned in 1548 at 34*l.* 19*s.* 4*d.* gross, and 33*l.* 6*s.* 2*d.* net. Certain sums were to be distributed yearly to the poor and to the mayor and principal officers of the corporation (B. and G. Arch. Soc. 'Trans.' viii. 244, 245). The mayor of Bristol's estimate of the income of the chantry at 40*l.* (p. 252) exceeds this deposition by nearly 2*l.* The return four years later of the income at no more than 34*l.* 19*s.* 4*d.* gross, at a time when rents were rising, is open to some suspicion. See *ib.*

<sup>36</sup> This is an extraordinarily small amount. The accounts in 1475 set out: 'For the holy cake on fifty-two Sundays, wax 5*d.* per Sunday, 2*l.* 7*s.* 8*d.*' (Pryce, p. 332). Deducting the cost of the wax, 1*l.* 1*s.* 8*d.*, this leaves 26*s.* for the bread and wine. But this is the sum set down below as paid to the baker for 'the church cake all the yere.'

<sup>37</sup> His salary from the church was 30*s.*, from the chantry 4*l.* 6*s.* 8*d.*, total 5*l.* 16*s.* 8*d.* See n. 6, *supra*. But Canynges' composition provided that two clerks should be maintained by the chantry, at 2*l.* 13*s.* 4*d.* each. Presumably the provision had been found inadequate and one chaplain reduced. See B, p. 252, n. 29, *supra*.

Item payd to the sayd clerk for the making of thys booke and hys Attendaunce . . . . .	vj <sup>s</sup> viij <sup>d</sup> .	
† <sup>38</sup> Item paid for the rent for the sayd prestes chambers . . . . .	xij <sup>s</sup> iiij <sup>d</sup> .	
Summa . . . . .	xviiij li. xij <sup>s</sup> iiij <sup>d</sup> .	
Costes on the holy kake & wex		
Item payd to the bakar for the churche kake all the yere . . . . .	xxvj <sup>s</sup> .	
Item payd to the wex maker for wex to the same . . . . .	xxj <sup>s</sup> viij <sup>d</sup> .	
Summa . . . . .	xlviij <sup>s</sup> viij <sup>d</sup> .	
Summa. <sup>34</sup>		
Item payd owte for the sayd chauntreis for Rent assised <sup>39</sup> . . . . .	xxxiiij <sup>s</sup> vij <sup>d</sup> .	
Item for canynges obbyte apon lammas day . . . . .	lvii. <sup>s40</sup>	Costes of the Obbettes
Item payd for canynges othe <sup>41</sup> obbyte apon seynt huys day <sup>42</sup> . . . . .	lvj <sup>s</sup> viij <sup>d</sup> .	
Item payd at the day of a count to the maire And all other officers . . . . .	xvij <sup>s</sup> . <sup>43</sup>	
Summa . . . . .	vj li. x <sup>s</sup> viij <sup>d</sup> .	
Summa totalis paymentes of the sayd londes . . . . .	xxix li. iiij <sup>s</sup> iiij <sup>d</sup> .	
Summa vacacionis . . . . .	iiij <sup>s</sup> vj <sup>d</sup> .	
Summa totalis Reparacionis . . . . .	lvj <sup>s</sup> v <sup>d</sup> ob.	

<sup>38</sup> A cross prefixed.

<sup>39</sup> Ass. in MS. 'Redditus assisus or redditus assisae, vulgarly rents of assise, are the certain rents of the freeholders and ancient copiholders, because they be assised, and certain, and doth distinguish the same from redditus mobiles, farm rents for life, years, or at will, which are variable and incertain' (Coke, 2 Inst. 19). It would seem that the church charged a rent for a chantry. A like rent occurs in the case of Medc's chantry below.

<sup>40</sup> This charge appears in the church accounts of 1475 as follows: 'For our Master William Canynges obiit at Lammas-day as the composition specyfyeth—2l. 17s. 0d.' (Pryce, p. 331). Lammas Day was August 1.

<sup>41</sup> Sic; qu. for 'other.'

<sup>42</sup> St. Hugh's Day was November 17. Canynges died on November 17, 1474 ('Dict. Nat. Biog.'). An obit was customarily celebrated on the day of the founder's death. It may be conjectured that Lammas Day was the date of the death of his wife. Of his two chantries one was dedicated to St. George, the other to

St. Catherine, in which last his wife was buried, and, in accordance with his will, Canynges himself (Barrett, pp. 576, 581).

<sup>43</sup> Presumably in accordance with Canynges' 'composition.' But in the Chantry Certificate of 1548 is the entry, 'To the Mayour, Shrifffes & other officers before named yerelie according to the seid Foundacion'—xlviij<sup>s</sup>. Ricart in his 'Kalendar,' says: 'Item, the morowe vpon All Sowlen Day, the Maire is vsid to walk to Redclyff, and the Towne clerk with him, there to sytte in Audite vpon William Canynges ij chauntries, and the vicorye [vicar] and the propters [proctors, i.e. churchwardens] with them. And aftir the seide Audyte is fynnesshid, the Towne clerk to entre thacompte of the same in a boke there, callid Canynges liger [ledger], and there the Maire to receyve 1 noble [6s. 8d.], the townce clerk xx<sup>d</sup>, the swerd berer viij<sup>d</sup>, and the four Sergeauntez of the Maire xvj<sup>d</sup>' (p. 79). This is a total of 10s. 4d., so that the expenditure at the audit had risen progressively from 10s. 4d. to 17s., and then to 48s. It is to be remembered,

Here after folowith the Recettes of Mr Medes chauntry <sup>44</sup> foundyd yn the churche of our lady off of (*sic*) Redclyff in Bristow.

Summa Totalis Recettes of medes  
chauntry whole by the yere . xvij<sup>li</sup> iiij<sup>s</sup>.

Here after folowythe paymentes of Mr Medes chauntry fowndyd yn the churche of owre lady of Redclyff within the Towne of Bristow.

In primis payd to oon chauntry prest for hys sellary  
by the yere . . . . . vj li. xiiij<sup>s</sup> iiij<sup>d</sup>.<sup>45</sup>  
Item payd for the rent for the sayd sir Thomas  
chambre . . . . . vj<sup>s</sup> viij<sup>d</sup>.  
Item payd to the iij wardens <sup>46</sup> for ther Attendaunce  
gyvyng . . . . . x<sup>s</sup>.  
Item payd to the clark for the makyng of the booke iii<sup>s</sup> iiij<sup>d</sup>.  
Item payd for parchment & paper & for makyng of  
the Rent Role . . . . . vj<sup>d</sup>.  
Summa . . . . . vij li. xiiij<sup>s</sup> x<sup>d</sup>.  
Item payd to the grey Fryers <sup>47</sup> for Mr Medes ij  
Obbetes . . . . . v<sup>s</sup>.  
Item payd owte for the said chauntrie for rent  
assised <sup>39</sup> . . . . . xlvj<sup>s</sup> x<sup>d</sup>.  
Summa totalis paymentes of the sayd  
londes . . . . . x li. v<sup>s</sup> viij<sup>d</sup>.<sup>48</sup>

Costes on  
the obbetes  
for Mr.  
Mede.  
Rent  
Resolute.

however, that the chantries had been threatened during some years, and that it was to the interest of the church to minimise the net income.

<sup>44</sup> See B, p. 252, n. 31, *supra*. It will be seen that the estimate of the income of Mede's chantry by the mayor of Bristol exceeds this return by 1*l*. 16*s*. See B, p. 252 *supra*. The return of the Chantry Certificate of 1548 is as follows: 'The landes and tenementes belonging to the same are of the yerlie value of xvij<sup>li</sup> xij<sup>d</sup>' (B. and G. Arch. Soc. 'Trans.' viii. 244).

<sup>45</sup> This would seem to be the priest of Mr. John Broke's foundation.' See B, p. 252, n. 32, *supra*. Apparently the charge against the parishioners of Redcliff that they do not carry out their obligation of finding 'one Mary Prest' was well-founded, and by the Chantry Certificate of 1548 there was only one priest, Barnarde Harres, at the salary of 6*l*. 6*s*. yearly (B. and G. Arch. Soc. 'Trans.' viii. 244).

<sup>46</sup> There were three proctors, or churchwardens. Among MSS. relating to the

parish is one setting forth the regulations for the observance of Pytte's obit. Among these is, 'Item, to every of the 3 Procuratories of the same church for the time being for their labour to see that all the things after the form above written be fulfilled and done' (Nicholls and Taylor, ii. 209).

<sup>47</sup> The Franciscans, so called from the dress of their order, 'a grey gown of coarse cloth with a pointed hood or capuche attached to it' (W. S. Addis and T. Arnold, 'A Catholic Dictionary' [1884], s.v. Franciscans).

<sup>48</sup> Subtracting the payments, 10*l*. 5*s*. 8*d*. from the receipts of 17*l*. 4*s*., the residue is 6*l*. 18*s*. 4*d*. This is a very different balance from that suggested by the mayor of Bristol's interrogatory, see B, p. 253, n. 35, *supra*. According to the Chantry Certificate of 1548, after the outgoings have been set down, 'And so remayneth the clere by yere —xiiij<sup>li</sup> x<sup>d</sup>.' (B. and G. Arch. Soc. 'Trans.' viii. 244).



SMYTHE v. DANCKERD.<sup>1</sup>

1544

To the right honorable the lorde Archebissshope of Caunterberrye<sup>2</sup> the Lorde Chaunceler of Englande<sup>3</sup> the Lorde Tresurer of Englande<sup>4</sup> the Lorde presydent of the kynges moaste honorable Counsaile<sup>5</sup> the Lord pryvey seal<sup>6</sup> the lorde great Chamberlayn of England<sup>7</sup> and other of the kynges moste honorable Counsaile.<sup>8</sup>

In most humble wise shewen vnto youre honorable Lordesshippes your daily Oratours Baldwyn Smythe<sup>9</sup> and Richard Barnes Citesens of London aswell for and on the parte and behalf of our soueraigne lorde kynge Henry the viij<sup>th</sup> as for and on the parte and behalf of your said Oratours—That where in the parliament begonne and

<sup>1</sup> S.C.P. Hen. 8, Bundle xvii. No. 195. For the form of address see *Introd.* p. xvii. See also p. xxvi.

<sup>2</sup> Thomas Cranmer, born 1489, educated at Jesus College, Cambridge, of which he became Fellow; Archdeacon of Taunton, e. 1529; succeeded Warham as Primate March 30, 1533; burnt at Oxford for heresy March 21, 1556 ('*Diet. Nat. Biog.*').

<sup>3</sup> Sir Thomas Wriothesley, eldest son of William Writh, York Herald, who adopted the name of Wriothesley invented by his brother Sir John Writh, the founder of the Herald's College. Thomas Wriothesley was educated at King's Hall, Cambridge; was a Secretary of State in 1540; Keeper of the Great Seal, April 22, 1544; created Baron Wriothesley of Titchfield, January 1, 1544; Lord Chancellor, May 3, 1544; Earl of Southampton, 1547; died July 30, 1550 ('*Diet. Nat. Biog.*').

<sup>4</sup> Sir Thomas Howard, Duke of Norfolk, K.G., third Duke of Norfolk of the house of Howard; born 1473; Earl of Surrey, 1514; succeeded as Duke of Norfolk, May 21, 1524; Earl Marshal, 1533. He was appointed Lieutenant-General of the Army which invaded France in June 1544, and appears to have returned to England in the following November (L. and P. Hen. 8, xix. ii. 511); died August 25, 1554 ('*Diet. Nat. Biog.*').

<sup>5</sup> Sir Charles Brandon, Duke of Suffolk, K.G., son of William Brandon, Standard Bearer to Henry 7 at the Battle of Bosworth; appointed Esquire of the Body, 1509; created Viscount Lisle, 1513; Marshal of the Army invading France, 1513; created Duke of Suffolk, February 1, 1514; married Henry 8's sister Mary, widow of Louis 12 of France, 1515; Commander-in-Chief of the Army invading France in June 1544. He probably returned with Norfolk in the Novem-

ber following (L. and P. Hen. 8, xix. ii. 511); died Aug. 24, 1545.

<sup>6</sup> Sir John Russell, Lord Russell of Chenies, K.G., afterwards first Earl of Bedford, son of James Russell (died 1509) by his first wife Alice, daughter of John Wyse of Sydenham-Damerel, Devonshire; born about 1486; a gentleman of the Privy Chamber under Henry 7 (1506); Knighted, 1513; much employed in diplomacy; married, in 1526, Anne, daughter and heir of Sir Giles Sapcote, through whom he acquired Chenies; Comptroller of the Household, 1537; created a Baron, 1539; Lord High Admiral, 1540; Lord Privy Seal, December 3, 1542; Lord High Steward, 1547; created Earl of Bedford, 1550; died 1555 ('*Diet. Nat. Biog.*').

<sup>7</sup> Sir Edward Seymour, Earl of Hertford, K.G., afterwards Duke of Somerset, eldest surviving son of Sir John Seymour (died 1536), of Wolf Hall, Wilts; born about 1506; educated first at Oxford and afterwards at Cambridge; Knighted, November 1, 1523; Esquire of the Body, 1530; on June 5, 1536, a week after the marriage of his sister Jane to Henry 8, he was created Viscount Beauchamp of Hache, Somerset, and Earl of Hertford on October 18 following; Lord Great Chamberlain, February 16, 1543; Protector, January 31, 1547; created Duke of Somerset, February 16, 1547; beheaded, January 22, 1552 ('*Diet. Nat. Biog.*'). It is to be observed that the Lord Great Chamberlain was not one of the officials designated as judges either by the Act of 1487 or by that of 1529.

<sup>8</sup> Upon the '*ceteri consilarii*' see '*Select Cases in the Star Chamber*' (Selden Society, 1902), pp. xxxviii-xliv.

<sup>9</sup> Will proved, 1557 ('*Index to Canterbury Wills*').

holden at Westemynster the xxvii<sup>th</sup> daye of Aprell in the xxxj<sup>th</sup> <sup>10</sup> yere of our saide soueraign lordes Reigne <sup>11</sup> it was ordeynyd and enacted amonge other thinges that the kinges maiestie with thaduese of his honorable Counsaile namyd and expressid in the saide acte or the more parte of them myght make and set furthe Proclamacions for the good and politique ordre and gouernaunce of this Realme Wales and other the kynges Domynions from tyme to tyme for the defens of his regall dignitie aduauncement of his comen welthe and good quyet of his people as the cases of necessitye shulde requyer vnder suche penalties and paynes and of suche sortes as to his highnes and his honorable Counsaile or the moste parte of them shulde seame necessarye and requysitte. And that the same proclamacions shulde be obbeyde observid and kept for the tyme in them lymytted as though they wer made by Acte of parliament as by the same acte <sup>12</sup> amonge other thinges therin conteyned more playnelye apperithe. And where also as our saide soueraigne lord the vij<sup>th</sup> daye of Januarye in the xxxv<sup>th</sup> yere of his moste gracyous Reigne <sup>13</sup> withe thadvise of the more part of his said most honorable Counselle namede in the saide Acte by thauctoritie of the same made and sette furthe his highenes proclamacion for the restraynte of vittelles in manner and fourme as hereafter folowithe Forasmoche as for the necessarie affaires of this Realme ther muste be presently made furnytüre of bere <sup>14</sup> wheate malt Ottes beanes Butter and Chese the wante and lacke wherof may be grete hyndraunce losse and detryment to suche exploites and enterprises as for defens of the kinges maiesties subiectes and anoyaunce of his graces auntyent enemyes be thought requysitte <sup>15</sup> the kinges maiestie therefore straitelye chargithe and commaundith that all other provisions of bere wheate malte Ottes Beanes butter and Chese made or to be made by vertue of any speciall Licens <sup>16</sup> or otherwise to be conveide beyonde the Sea into owtewarde parties be

<sup>10</sup> Sic; see n. 20, *infra*.

<sup>11</sup> 1539.

<sup>12</sup> 31 Hen. 8, c. 8 (1539), 'An acte that proelamacions made by the Kinges Highnes with thadvise of his Honorable Counsell shalbe obeyed and kepte as though they were made by acte of Parliament.' Hallam observes on this statute: 'This has often been noticed as an instance of servile compliance. It is, however, a striking testimony to the free constitution it infringed, and demonstrates that the prerogative could not soar to the heights it aimed at till thus impelled by the perfidious hand of Parliament' ('Constitutional History,' 3rd ed., 1832, i. 48). See also *A.-G. v. Danby*, p. 226, n. 8.

<sup>13</sup> 1544.

<sup>14</sup> Bere, bear, 'barley: the original English name, in later times retained only in the North, and especially in Scotland' (J. A. H. Murray, 'Eng. Diet.' s.v. Bear).

<sup>15</sup> An invasion of Scotland was in contemplation. See Dr. Gairdner's Preface to *L. and P. Hen. 8*, vol. xix. pt. i. (1544).

<sup>16</sup> The case of the Attorney-General *v. Danby* and others shows that by a proclamation of February 16, 1541, provisions and other commodities were forbidden to be exported without the 'Kynges maiesties lycence vndre his greate seale.' This would presumably be the 'speciall Licens' here revoked. On the legal aspect of licences see *Introd.* pp. xxvi-xxix.

staide.<sup>17</sup> And that fromehensfurth none shall carye or transporte or be suffered to passe withe any of the same graynes or vittelles vntill suche tyme as the necessarye furnytüre afforsaide be sufficientlye made and satisfied as apperteynyth, vppon payne that euery person offendynge this present proclamacion shall lose and forfeite the corne and vittell transportid and carried contrarye to the forme herof and shall suffer imprisonment and make fyne at the kynges maiesties pleasure And that euery Customer Comptroller and Sercher or ther Deputies sufferynge the same shall lose and forfeite one hundreth poundes and allso haue imprisonment and make fyne at the kynges maiesties pleasure as by the saide proclamacion more playnlye apperithe Whiche said proclamacion so made and sette furthe as is afforesaide was afterward that is to saye the xix<sup>th</sup> daye of Januarye in the saide xxxv<sup>th</sup> yere of oure saide soueraigne lordes Reigne<sup>18</sup> and dyuers other dayes of the same monethe at the Towne and porte of Colechester in the Countie of Essex beyng a markett Towne and in thre other markett townes in the said Countie of Essex<sup>19</sup> in the tyme of open markett holden in euery of the same Townes by the commaundement of our saide soueraign lorde the kynge playnlye and openlye pupplisshid proclaymed declarede and sett furthe accordynge to the tenner and purporte of the saide acte and proclamacion.

So it is right honorable Lordes that one Sebastyne danckerd straunger henry poyntill Citezen of london factoures vnto one Jacob vanganspole merchaunt of Andwerpe nothing ponderinge or regardynge the kinges said proclamacions nor the penalties and dangers therof but in contempte therof after the saide proclamacion in fourme aforesaide made and proclamyd and before the said necessarie furnytüre had and made as is aforesaide that is to say the xxij<sup>th</sup><sup>20</sup> day of Auguste laste paste in this presente xxxvj<sup>th</sup> yere of our soueraigne lorde the kinges Reigne<sup>21</sup> in a Creke<sup>22</sup> nere besides Burnham in the Countie of Essex aforesaide and within the parisshe of Burnham aforesaide did shipp and cause to be shipped contrarye to the fourme and effecte of the said proclamacion in the ship called the John of Lee wherof one John Goodlade of the said Towne of Lee then vndir god

<sup>17</sup> A case of the Crown derogating from its own grant.

<sup>18</sup> 1544.

<sup>19</sup> See *Attorney-General v. Danby* and others, p. 226, n. 8, *supra*.

<sup>20</sup> This abbreviation 'th' points to the reading being 'two and twentieth.' It is usual in sixteenth century script.

<sup>21</sup> 1544.

<sup>22</sup> See *Attorney-General v. Danby* and others, p. 232, n. 19. Burnham-on-Crouch is on the River Crouch, which joins the sea at Foulness Point, some five miles to the eastward. Lee or Leigh is on the Essex side of the Estuary of the Thames, about three miles west of Southend.



was master cxx wey of Chese<sup>23</sup> xl barrels butter<sup>24</sup> And the same chese & butter vnlaufely and contrarye to the kinges said proclamacion carried and conveide in the said ship to Andwerpe in the parties of be yonde the sea by weye of merchandize, and ther vttred and solde the same in contempte of our said soueraigne lorde & agayne the forme of the kynges said proclamacion And that allso and before the saide necessarye furnytüre had and made as is aforesaid that is to saye the xij<sup>th</sup> daye of September laste paste in this presente xxxvj<sup>th</sup> yere of our said soueraigne lord the kynges Reigne,<sup>25</sup> in the said Creke nere Burnham aforesaid did ship and cause to be shipped in a shippe called the John of Flusshing, wherof one Cornelis Johnson of Flussching in the parties of Seyland vnder god was master c weye of chese xxx barrells of butter. And the same chese & butter unlawfullye cariede and conveide to Andwerpe as is in forme aforesaide.

And allso right honourable Lordes one John Valentyne and Robert Deraughe beyng then Customers of the portes of Ipsewiche and Colchester and of all portes and places therunto apperteynyng, and Richard Buckcock, being then Comptroler of the same, Richard Lorde otherwise called Burley being then sercher in the same portes and places wilfullie permyttid and sufferide the said chese and butter to be shipped and conveyed in [to the parties<sup>26</sup> beyond] the see contrarye to the forme of the saide proclamacion, wherby euery of the said Valentyne, deraughe, Buckcock and lorde haue forfeited one hundrithe poundes to the kinges highnes and allso to be pun[yssh]ed at the kynges] maiesties pleasure And the saide Bastian Danckerd henry poyntell Jacob Vanganspole haue forfeited the saide chese and butter or the value therof and ought to suffer punysshment [at the kynges] maiesties pleasre accordinglye. And furthermore right honourable Lordes whereas our saide soueraign lorde the xx<sup>th</sup> day of Maye in the xxxiiij<sup>th</sup> yere of his highnes said Reigne<sup>27</sup> with thadvise of

<sup>23</sup> By the Act 9 Hen. 6, c. 8 (1431), the weight of a wey ('waye') of cheese was fixed at thirty-two cloves, and that of each clove at seven pounds. But though this statute was expressly designed to substitute statutory for customary or 'auncel' weight, it would appear to have proved ineffective, for W. Sheppard's 'Clerk of the Market' (1665), p. 62, says that the wey of Suffolk cheese must be 256 pounds and of Essex cheese 336 pounds. Rogers's 'History of Agriculture and Prices,' iv. 359, notes the purchase of Essex cheese in 1536 at 14s. 8d. to 19s. a wey, and of Suffolk cheese at 23s. 8d. a wey in 1536 and, by the Controller of the Navy, at 30s. in 1549.

<sup>24</sup> The barrel of butter at this time

appears to have weighed 232 pounds (Rogers, iv. 360), apart from the weight of the barrel itself. By 23 Hen. 8, c. 4, the barrel of soap was restricted to the weight, when empty, of twenty-six pounds, and butter was held to come within this restriction. M. Dalton ('The Country Justice') (1618), 177. The firkin, when empty, was by the same Act to weigh 6½ pounds. According to Rogers, butter was sometimes sold at four, sometimes at five, firkins a barrel. At four firkins the barrel it was bought at Trimley, Suffolk, in 1545, for 6s. 8d. the firkin of fifty-eight pounds.

<sup>25</sup> 1544.

<sup>26</sup> MS. torn.

<sup>27</sup> 1541.

the more parte of his moste honourable Counsailours named in the said Acte and by thauctorite of the same made and set furthe his highnes proclamacion for the vittalyng of his highnes Toune of Callis Gynes<sup>28</sup> Hammes<sup>29</sup> and the marches of the same<sup>30</sup> in maner and fourme as herafter followith that yf any person or persons that shall provide or take vpon hym to conveye or transporte vitales or thinges to his highnes said Towne of Calis or the marches of the same do not the same accordynge but falselye and vnrulye conveye such vitalis or thinges to other places oute of his graces domynyons, That then the offendours of suche and in all other places not repugnant or contrarye to this proclamacion nor dispensed with by the same shulde incurre & runne into the daungers losses and paynes and penalties expressed and mencioned in the said former proclamacion made the xvj<sup>th</sup> daye of Februarye in the xxxii<sup>th</sup> yere of the kinges maiesties Reigne,<sup>31</sup> as by the said proclamacion amonge other thinges more playnly apperithe Whiche said proclamacion was after that openlye proclamyd declared and set furthe in foure seuerall markett Townes within the said Countie of Essex accordynge to the saide acte So it is right honorable lordes that the said Bastian danckerd and henry Poyntyll servauntes to the saide Jacob Vanganspole merchaunte of Andwerpe aforesaide, after the said proclamacion in forme aforesaide had made and proclamyd as is aforesaide that is to saye the xiiij<sup>th</sup> day of Julye in this present xxxvj yere of the kinges said Reigne,<sup>32</sup> did ship and cause to be shipped at Burnham aforesaide in a ship callid the Nicholas wherof one Roberte Mors of lee in Essex was then under god master c weye of Chese and xl barrells butter whiche said chese and butter was entred in the Customes bookes at Colechester<sup>33</sup> in the name of the same Bastian danckerd Englyssheman who is a straunger<sup>34</sup> by the nombre of xl weye of Chese x barrells butter and bounde by obligacion to delyuer the same at Caleis Yet that notwithstanding the same

<sup>28</sup> Guînes or Guisnes, 5½ miles south of Calais, where a strong castle was captured by the English in 1352 and garrisoned by them till the fall of Calais in 1558. There was also a small town with an English colony.

<sup>29</sup> A castle, with an English garrison, halfway between Calais and Guînes. It was the last fortified place held by the English, being evacuated at night, after the recapture of Calais by the Duc de Guise (R. B. Calton, *Annals and Legends of Calais* (1852), p. 155).

<sup>30</sup> A map of the Marches of Calais in the time of Henry 8 is to be found in the *'Chronicle of Calais'* (Camden Society,

1846), p. xxviii. This shows the positions of the Castles of Guînes and Hammes.

<sup>31</sup> 1541.

<sup>32</sup> 1544.

<sup>33</sup> Colchester, the port of which Burnham was a creek, could only be reached by a somewhat circuitous route, on account of the Estuary of the Blackwater River, and would be over twenty-eight miles distant by road. For the method of checks in force in order to insure the carriage of victuals to the ports named, see Appendix II. pp. 290-6.

<sup>34</sup> Thereby defrauding the customs, the duties being for natives the subsidy of 1s. in the £ ad valorem, but for aliens, other than the merchants of the Hanse, a

premisses were unlauffully conveyed in the same shippe to Andwerpe vnto the parties of beyonde the sea by weye of marchaundize and there vttred and solde in contempt of our saide soueraigne Lorde and againste the fourme of the said proclamacion And also the xx<sup>th</sup> day of Auguste last past in this said xxxvj<sup>th</sup> yere<sup>35</sup> thabouesaide Bastian danckerd and henry poyntyll did ship and cause to be shipped at Burnham abouesaide in a shippe called the Nicholas wherof John Spuddyll of Lee aforesaide then under god was master lxxx weye of chese and xxxvj barrells Butter whiche said chese & Butter was entred in the Customes book at Colchester by thabouesaide Bastian danckerd by the nombre of viij weye of chese x barrells butter in the name of the said John Spuddyll Master aforesaid who was nothing knowynge therof, and the said Bastian and sureties with hym bounde by obligacion to delyuer the same at Calis and yet that notwithstandinge the same premisses vnlauffullye did conveye in the same ship to Andwerpe by weye of merchaundize there to be vttred and solde in contempte of our saide soueraigne lorde the king and agayne the fourme of the saide proclamacion. Wherefore the said Bastian danckerd and henry poyntill haue forfeited the value of the said chese and butter and ought to suffre imprisonment and make fyne at the kinges maiesties pleasure. Furthermore the xxii<sup>th</sup> day of Julye in this said xxxvj yere of the kinges saide Reigne<sup>35</sup> one Robert Smythe Englissheman dwellinge in the Towne of Colchester did ship and cause to be shipped cxx weye of chese xl barrells butter for one Giles hosteman servaunt to Jaques deprior merchaunt of Andwerpe aforesaide whiche saide chese was entrede in the Customes Boke at Colchester by the saide Giles hosteman in the name of the same Robert Smyth<sup>36</sup> by the nombre of xx weye of chese in a shippe called the Margarete wherof one Richard wade of saynte Osis in Essex then vnder god was master and bounde by obligacion to delyuer the same at Callus and yet that notwithstandinge the same premysses wer vnlauffully conveyed in the same shippe to Andwerpe in forme aforesaid by wey of marchaundize and there vttryd and solde in contempte of our saide soueraigne lorde and against the fourme of the said

eustom of 3*d.* in the £ ad valorem in addition. G. Sehanz, 'Englische Handels-politik' (Leipzig, 1881), ii. 6.

<sup>35</sup> 1544.

<sup>36</sup> Whether Hosteman was himself an alien or not, this was a constructive entry of an alien's goods in an Englishman's name—a statutory offence. By the Act 3 Hen. 7, c. 7 (1487), neither denizen nor alien might enter goods at the Custom House

save under their own names. This prohibition proving inconvenient, an amending statute was passed in 1510 intituled 'An Acte for the trewe Payment of the Kinges Customes' (1 Hen. 8, c. 5). By this Act denizens or aliens might enter goods in the names of denizens or aliens respectively. Goods customed by denizens in the name of aliens or *vice versa* were liable to forfeiture, as the complainants allege here.



proclamacions by reason wherof the said Robert Smyth Giles hosteman haue forfeited the value of the said chese and butter and they ought to suffer imprisonment and to make fyne at the kinges maiesties pleasure.<sup>37</sup> In tender consideracion of the premisses it may please your honourable Lordeshippes to cause the said John Valentyne Robert deraughe Richard Buckocke henry webb John Gynne there deputies at Colchester Richard Lorde Sercher, Bastian danckerd henry poyntill Gyles hosteman Robert Smythe Robert Mors John Spuddyll Richard Wade and other the offenders aforenamed by vertue of our soueraigne Lorde the kynges writ of Subpena proclamacion<sup>38</sup> or other wise to appere before your good Lordeshippes at a certen daye and vpon suche payne as by your good Lordshippes shal be thought mete and convenyent then and there to make answer to the premisses and further to be ordered therin as shall accord with right equitye and the ordre of the kinges lawes and that your said Oratoures may haue suche parte of the saide forfeitures<sup>39</sup> as by your honorable Lordeships shalbe thought to stande withe equitye and concyens and your said Oratours shall dailye pray for your noble estates longe to contynewe in helthe and prosperite.

<sup>37</sup> Imprisonment and fine are prescribed by the statute of 1539, and are the penalties attached to disobedience to the proclamation of January 7, 1544, as above recited (p. 279).

<sup>38</sup> See *Attorney-General v. Danby*, p. 234, n. 33, *supra*.

<sup>39</sup> It is not provided by the Act of 1510 (1 Hen. 8, c. 5) that the informers should have any part of the forfeitures, which were to go to the Crown; but it is provided that 'eny persone or persones greved contrarye to this acte' should have an action for debt against

the maker of the false entry to the amount of the value of the forfeited goods. The 'persones greved' were presumably the officers of the customs, who were responsible; but as these were charged with privity to the offence, they could obviously bring no action. This omission of any provision for the benefit of the informer is perhaps the reason why the information was laid before the Star Chamber, which, as the King's Council, exercised an undefined discretion.



## APPENDIX I

### INHABITANTS OF BEWDELEY v. MAYOR OF GLOUCESTRE & BAILIFF OF WORCESTRE.<sup>1</sup>

To the right reuerent Fadyr in god William Arche-  
bishopp of Canterbury and Chaunceler of England.<sup>2</sup>

1504      Mekely shewyn and complayn to your good lordeshipp your dayly  
Oratours William Southall<sup>3</sup> and Humfrey Woodhall in the name  
of all the Burgesses and inhabitauntes<sup>4</sup> of the Town of Bewdeley  
in the Countey of Salop that wher they and theyr predecessours  
Burgessys and inhabitauntes of the seid Town haue vsed out of tyme  
of mynde to goo and passe by with their barges and veselles laded  
and charged with oyle<sup>5</sup> mader<sup>6</sup> wood and with all other maner of  
merchaundize apou the kynges hye streym of Severn by the Cytey of  
Worcestre and the Town of Gloucestre to Bristowe<sup>7</sup> and to all other  
Townes in tho parties<sup>a</sup> and to halt apou their grounde<sup>a</sup> frely without  
let or interupcion or eny maner of Toll or Custom payng for the  
same except the same partiez so passyng by tye at their keys and  
there make sale, till nowe of late tyme the meir and shireffes of

<sup>a</sup> Interlined.

<sup>1</sup> S.C.P. Hen. 8, vol. iv. f. 182. Wrongly sorted. As not belonging to Henry 8's reign (see *Introd.* p. cxxxiii) it has been placed here.

<sup>2</sup> William Warham. Cf. p. 6, n. 2.

<sup>3</sup> Will proved in 1522 (J. C. C. Smith, 'Index to Canterbury Wills').

<sup>4</sup> By the Charter of October 20, 12 Edward 4 (1472), Bewdley was incorporated as a Free Borough ('Liber Burgus') 'per nomen Burgensium ville de Beaudeley,' which is the reason for the style of the petitioners (J. R. Burton, 'Hist. of Bewdley' [1883], p. xlii).

<sup>5</sup> Oil was brought from Spain and used for cloth-making; cf. Letters and Papers, Henry 8, iv. 4239, Norfolk to Wolsey, May 4, 1528: 'The scarcity of oil alone,

they (the clothiers) say, will compel them to give up making cloth, unless some come from Spain.'

<sup>6</sup> Madder was used for red dye. It was principally brought from Ravenna in Italy. (Ure's Dict. [7th ed. 1878], iii. 158). This and the last item point to the supply of the cloth-making industry. Bewdley was famous for the manufacture of caps.

<sup>7</sup> The language suggests that the oil and madder were conveyed from Bewdley to Bristol. It must, however, surely have been the other way, the cargoes from Bristol being for the Bewdley cap manufacture. Possibly the counsel responsible for the draughting of the petition was ignorant of the fact that Bewdley was up stream and inland.



Gloucester<sup>8</sup> foresed and also the bailyf of the seid Citey of Worcestre<sup>9</sup> and ther seruauntes haue by their gret myght and strenkyth compelled your seid Oratours beyng apon the kynges seid hie streym with ther merchandize intendyng to passe by the seyde Cytey of Worcestre and Town of Gloucester to cum and tye att ther kye and ther for drede and fere of inprisonament and firther losse of ther goodes and merchandize Causen and compellen them to pay dyuers summes of money contrary to the Acte of parlament made in the ix<sup>th</sup> yer of kyng Henry the vi<sup>th</sup><sup>10</sup> and contrare to ther costomez out of tyme of mynde vsed and if your seid Oratours refuse so to do contrary to their appetites then they ryottuosly shoot arrowez and caste stones at them and so for fiere and drede of theyr lyves haue compelled them to cum out of the kynges hie streym with theyr merchaundize and to pay them the seid summes of money and also to make sale of ther merchaundize contrary to their myndes and if they deny so to do then they imprison your seyde Oratours and ther seruauntez or els take parcell of their merchandize and kepe it in plegge for the same and so troubelyn and vexen your seyde Oratours dayly to the gret losse of ther godes and vtter vndoing of them and all the hole Cuntrey in tho partiez contrary to their priualeges afore tyme vsed and also contrary to the Actes of parlament afore thys tyme to the contrary therof made and provided.<sup>11</sup> Wherefore please

<sup>8</sup> 'Since the first of Richard the Third, the title of Bailiff hath ceased, and instead thereof were Mayors and Sheriffs' (S. Rudder, 'Hist. of Gloucestershire' [1779], p. 115).

<sup>9</sup> By a charter of 1261 Henry 3 granted to the citizens of Worcester that two bailiffs, two aldermen, two chamberlains, and forty-eight assistants should have the government of the town, &c. (H. A. Merewether and A. J. Stephens, 'Hist. of Boroughs' [1835], i. 468; Nash, 'Hist. of Worcestershire' [1782], ii. Append. cxl; T. Madox, 'Firma Burgi' [1726], p. 272; V. Green, 'Hist. of Worcester' [1796], ii. 33).

<sup>10</sup> 9 Hen. 6, c. 5 (1431). 'Item, because the River of Severn is common to all the King's liege people to carry and re-carry within the stream of the said river, to Bristol, Gloucester, Worcester, and other places joining to the said River, all manner of merchandises and other goods and chattels as well in Trowes and Boats as in Flotes commonly called Drags, in every part joining to the said River . . . It is ordained by authority of this Parliament, That the said liege people of the King may have and enjoy their free Passage in the said River with Flotes and Drags and all

manner of Merchandises, and other goods and chattels at their Will, without disturbance of any, and if any be disturbed of his free Passage in the said River, the Party grieved shall have his Action according to the Course of the Common Law.' Presumably the next clause of this petition, imputing violence to the defendants, is the excuse for having recourse to the Star Chamber.

<sup>11</sup> Qu. does this include the Act 19 Hen. 7, c. 18 (1504) ('de Fluvio Sabrini')? It would seem so, for the action of the inhabitants of Gloucester and Worcester here complained of was an evasion of that Act, by which it was forbidden to take impositions for Trows, boats &c. 'passyng by the said River.' This was followed by a clause providing that it should be lawful for riparian owners 'to take of every person or persons goyng uppon his or their seid londis or medes and halyng or drawyng any such Trowe Bote or Vessell resonable recompense and satisfaccion for such hurtes and offenses as he or they havyng such londis or medes adjoynyng to the seid Streame or Water shall susteyne by reason of eny such goyng or drawyng of any such Trow Bote or Vessell.' The complaint here

it your good lordeshipp the premises tenderly consideryd and also seyng that it is for a comen Wele of the hole Cuntrey in tho partez to cummand and yeve iniuncion to the seyd meir Shiref and Bayllys of Worcestre and Gloucestre or els to ther assignez and Consell for them here beyng present to suffre your seid Oratours to haue their fre passage apou the kynges hie streym accordyng as they and their predecessours afore tyme haue vsed and also to take firther direccion ther in accordyng as shall please your good lordeshipp and your seid Oratours shall dayly pray to god for the presente and<sup>b</sup> Welfare of your gode lordshypp long to indure.

(*Indorsed*) Inhabitantes Bewdeley contra Burgenses Glocestrie & Worcestrie

(*and in modern hand*) Bewdeley, Inhabitants of

v.

Mayor of Gloucester & Bailiff of Worcester.

<sup>b</sup> Blank in MS. after 'and.'

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<p>is that the petitioners were compelled to stop at the quays, whereby they became liable to the exactions allowed by the statute.</p>	<p>The petitioners may, therefore, have elected to rest their case on the general words of the Act of 1431.</p>
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## APPENDIX II

A.<sup>1</sup> Anno xxi<sup>o</sup> Henrici Octavi. (1529.)

A Proclamation against forestallers & regraters of corne & for prevencion of the dearth of graine & for furnishing of the markettes with corne upon payne of forfeiture of the corne forestalled or regrated & ymprisenment of the offenders.

Rex vicecomiti Suffolcie Salutem. Precipimus tibi firmiter injungentes quod immediate post receptionem presencium in singulis civitatibus burgis villis ac aliis locis infra Ballivam tuam tam infra libertates quam extra &c.

The king our soveraigne Lord considering howe the great scarcitie of corne & graine & the high prises of the same hath of late risen within this his Realme of England by meanes of such evill disposed persons as doe forestale & regrate the same corne & graine & doe combyne & confeder togeather in Faires & markettes to sett unreasonable prises uppon the said corne & graine to the great damage of his loveing subjectes & contrary to divers actes & statutes in that case provided of his gracious disposicion willing speedy remedy to be had against such forestallers regratours & other offendours in this behalf straightly chargeth and comaundeth that no person of what degree or estate soever he be doe forestall regrate or combyne himself with other to make or sett such unreasonable prises nor that anie person being no victualler or purveyour for anie twones<sup>2</sup> cities shires or housholders buy or take into his handes in markett or other place anie more corne or other graine then shalbe needfull for his houshold and seed corne for his land and the reasonable provision whereunto he is assigned or appointed without making anie sale of the same provision nother that anie husbandman or other person whatsoever he be haveing corne sufficient of his owne (as is aforesaid) shall buy anie seed corne or

<sup>1</sup> B.M. MS. Harl. 442 Plut. lxvi. D. fol. 107. Cp. Introd. p. xxii.

<sup>2</sup> Sic.



other corne att the markett or elles where unles he from time to time bring to the markett as much of his owne corne there to be sold & put to sale as the same corne amounteth unto which he buyeth att the said markett or other place uppon paine to runne into the kinges high displeasure and to forfeite the same corne and graine used bought and sold contrary to this his proclamacion and the body of the person offending to be committed to ward without baile or maineprise there to remaine the kinges determinate pleasure in that behalf And in case anie person or persons have made anie bargaine or bargaines for anie manner of corne or graine contrary to the effect & purport of this the kinges proclamacion That then the same bargaine & bargaines to be frustrate voyd and of none effect and yf anie money in this case be paid by force and virtue of anie such bargaine the kinges pleasure and comaundement is that the same money be repaide and restored as reason apperteyneth Furthermore the kinges highnes straightly chargeth and comaundeth that all such person & persons as have more corne then shall suffice for the expenses of their houshold and their seed corne shall from time to time send or bring to the markettes there to be sold parte of the same corne remayning above the expences of his said houshold and seed corne so that the markettes maie be sufficiently furnished att all times Provided allwaies that this present proclamacion extend not to anie person or persons being comon malters and buyers of barley or oates to the same purpose of malting And furthermore his highnes straightly chargeth and commaundeth all and singuler maiours shiriffes justices of peax Bailiffes and other his faithfull officers to whome yt apperteyneth in this behalf that they and every of them within every shire citie burrough Towne & other place and markett within this his said realme soe cause and procure in that that they may that this proclamacion be putt in effectuall and due execucion And also to aide assist and helpe the executours of the same proclamacion as they will answere to his Grace att their uttermost perills. Et hoc sub periculo incumbenti nullatenus omittas. Teste Rege apud Westmonasterium viij<sup>o</sup> die Octobris anno regni nostri vicesimo primo.<sup>3</sup>

<sup>3</sup> 1529.

B.<sup>1</sup>

1534. January.

(Regrating of butter and cheese.)

. . . . .<sup>2</sup> parties by thys your realm  
. . . . . is have & doo resorte to diverse  
. . . . . wollen clothes and oth(er)  
. . . . . e avauncement as well of the  
of . . . s of this your realme . . . all, yf by your  
highness & most honorable counseill, lordes spiritual and tem(porall  
in this pres)ent parliament assembled remedy therin may be  
provided. For so it is . . . (whe)re as of late days,  
by the sayd myssusage, butter beyng at . . . (a barell and  
cheese a)t xx s. a waye, yet by veru<sup>3</sup> of a restraynt by your . . .  
highness & mo(reover) . . . upon the piteous complayntes  
of diverse your subgiettes in that behalf, and for the co(mmodity of  
the sai)d realme late made & provided, the price of butter was  
brought from . . . a barell, and chese from xx s. away  
to x s. away, to the greate comfort . . . subgiettes :—That  
notwythstandyng, most gracious souveraine lorde, suche . . .  
yeres past have excersised & kept theire landes & groundes in tillage  
with good . . . pon the s . . . doo put away theire  
tillers & servantes to converte theire said grounds arrable into  
several . . . and make dayry houses of the same, trustyng  
yet that the said restraynt shall not be . . . (an)d that  
the said butte(r) & chese & other vitalles by such unlawfull  
engrosyng, regr(atyng and c)arrying the same over the see  
shall shortly be inhanced to hye and unresonable prices . . .  
ever have ben by meane of which regratyng, engrosyng and unlaw-  
full convay(ing over) the see of butter, chese, and other vittalls, yf  
any realme or cuntrey shall hereafter pretende to have warre against  
your highnes & this your realme or youre highnes against theym  
they may always vitalle theire townes, castelles & fortresses with  
suche playntie of vitalles as by such myssusage . . . of  
ref(orma)cion herin in tyme myght be convayed oute of this your  
realme as aforesaid. And where your said subgiettes myght have  
playntie of the said butter, chese and other vitall(s) in all places &  
cuntreys within this your said realme at prices resonable, as well for  
the byer as for the seller, there hathe ben & withoute reformation  
herein be provided ther wylbe diverse persones in every cuntrey to

<sup>1</sup> R.O. MS. (L. & P., Hen. 8, vii. 59). Cp. Introd. p. xxix.<sup>2</sup> The first part of this MS. is much torn.<sup>3</sup> Sic.

regrate and engrose great playntie of butter, chese & other vitalles, and to sell the same to be shypped into the parties of by yonde the see, as diverse now doo, and so for the singuler avauncement of fewe persones in nomber bryng the said vitalles to greate & hygh prices as they nowe of late be, to the greate impoverysshing of your poor comens in generall, and to the greate avauncement & suertie of other straunge realmes as aforesaid; in somoch that by force of such seasitie of vitalles diverse men artificers & other dwellyng & inhabityng aswell in cities townes borowes & portes & in the cuntres & other places within this your realme have put most parte of the servauntes from theym, and some all to gyther, which servauntes so beyng withoute service fall to idelnes & newe inventions, somme to begg, somme to robb, and so in the ende fall in daunger of your graces lawes & many of theym put to dethe and that by cause they can not be sett to work for lack of a directe ordre in the premisses to be . . . . . (t)herfore it may playse your highnes by the advise of your lordes spirituall & temporall and comens in this present parliament assembled, that it be enacted by auctoritie of the same parliament that no maner of person or persons Englyssh or straunger of what degre or condicion they be of shall not from hensforth shippe or convaye any butter or chese that shalbe bought or that may be sold above these prices followyng, that is to say, butter at xiiii s. a barell & under, chese made in Essex at x s. awaye & under, and chese made in Suffolk and in all other cuntreys within this your said realme of Englond at ix s. awaye & under, and not above these prices under the payne of Forfiture of all that they shall shypp contrary to the same, the oon half therof to be to the use of your highnes, and the other half to hym or theym that shall sue for hytt, be yt be accion of dett, byll, playnt, enformacion or otherwise, and that no person or persones offending the said estatute be admytted to wage his lawe ne any essoynie licence or proteccion to hym or theym for his or their defence in that behalf to be allowed, and that by the same auctoritie yt may be enacted, that no maner of persone or persones of what degre or condicion they be of shall From the Feaste of the nativite of Saint John Baptist next ensuyng the making of this statute, bye shipp & convey any beeffe mottions or bakon into any partie or parties of be yonde the see under the payne of lyke forfeiture of the same to be recovered as is aforesaid. Provided always that it shalbe leful to any of the said subgiettes of this your realme to bye shippe & convaye any of the said vitalles for the servyng & vitallyng of your Towne of Calais with



your castelles of Guynes & hamys & marches of the same,<sup>4</sup> and for victallyng of your shippes, and also for your marchantes & subgiettes venteryng to Iseland for Fysshe and Jesu preserve your grace.

C.<sup>1</sup>

1535. Feb. 5. R.O.

(Victualling of Calais.)

(Certificate of discharge of cargo of victuals from Ipswich.)

Universis & singulis ministris domini Regis Anglie ad quos presentes litere pervenerint nos Collector et Contrarotulator customarum et subsidiorum ejusdem domini Regis in portu ville sue Calisie, Salutem. Vobis certificamus quod Oliverus Este et Robartus Wilcockes in hunc portum induxit in navi vocata le marie de Calisia unde Robartus Candler est magister et hic de eadem navi exoneravit quindecim centum pedes bordes (cum) tribus wagis casii et xvj flickes bakon contentos in quodam coket<sup>2</sup> dato apud Gippewicum decimo die Januarii ultimo preterito. Testantur sigilla officii nostri. Datum quinto die Februarii anno Regis Henrici octavi vicesimo sexto.<sup>3</sup>

Arthur Lyssle,<sup>4</sup>Edwardus Ryngeley.<sup>5</sup>

<sup>4</sup> See Introd., p. xxviii, and p. 281, nn. 28-30.

<sup>1</sup> R.O. M.S. (L. & P., Hen. 8, viii. 175).

<sup>2</sup> The 'cocquet' was the receipt or acquittance given by the king's officer to the merchant testifying to the payment of the customs on export, which were originally confined to the great custom of wools, woolfells and leather. The form of it ran: 'Edwardus omnibus, ad quos, salutem. Sciatis, quod J. S. nobis solvit in portu nostro London customas nobis debitas pro tribus saccis lanae, quo quietus est. Testibus collectore et contrarotulatore customarum nostrarum in portu praedicto; die anno,' &c. The name 'cocquet' is said to have been a corruption of 'quo quietus,' it being a certificate of payment of duties outwards, answering to the 'certificate' proper or receipt of duties inwards. The cocquet bore the customer's seal. A ship seized for evading the customs was entered as seized, 'quia non cocketteta nec custumata' (Sir M. Hale 'Concerning the customs' in Hargrave's 'Collection of Tracts' [1787], pt. iii. pp. 104, 149).

<sup>3</sup> 1535.

<sup>4</sup> Arthur Plantagenet, Viscount Lisle, K.G., born about 1480, a natural son of Edward 4 by Elizabeth Lucie, or Lucy; esquire of Henry 8's bodyguard, 1509; married, in 1511, Elizabeth, widow of

Edmund Dudley, the notorious extortioner employed by Henry 7, and obtained a grant in 1510 of lands in Dorset, Sussex, and Lancashire, which had belonged to Dudley. He was knighted in 1513, when he was captain of a man-of-war. His wife was the daughter of Edward Grey, Viscount Lisle, and on April 25, 1523, he obtained a grant of the title of Viscount Lisle on surrender of a patent conferring that title on Charles Brandon, Duke of Suffolk. He was elected K.G. in 1524; and was vice-admiral of England 1525-36. On March 24, 1533, he was nominated Deputy of Calais. He was recalled under suspicion of treason in 1540 and imprisoned in the Tower till January 1542, when he died of excitement at hearing of his restoration to favour ('Dict. Nat. Biog.').

<sup>5</sup> Sir Edward Ryngeley, Marshal of Calais, a distinguished soldier. His birth and parentage are unknown. He first appears in the Letters and Papers of Henry 8, in March 1515, as the senior captain at Tournay with the high pay of 4s. a day, that city having been captured and occupied by the English on September 24, 1513 (L. and P. ii. p. 1513). In the summer of 1515, on the occasion of the Field of the Cloth of Gold, he was one of those selected as a representative of England in tournament (ib. iii. p. 1554).

He had a post at Court, being described in a grant of November 8, 1520, as 'Edward Ryngley, the king's servant.' By this grant he received, during pleasure, various annual rents pertaining to the manors of Knolton, Shrynklyng, and Northcourte, Kent, and also the manor of Shortley and lands in Coventry, all of which had been enjoyed by John Langley, deceased (ib. 1081). This grant suggests that he had already married his first wife, Elizabeth, daughter of Thomas Peyton of Iselham, Cambs. and widow of Edward Langley of Knolton, Kent, at which place Ryngley resided (E. Hasted, 'Hist. of Kent,' iv. 203, 209). His post in 1521 was that of 'gentleman usher of the chamber.' On December 4 of that year he received a grant of the reversion of the office of steward of Dover Castle (L. and P. iii. 1928). In that year George Nevill, third Lord Bergavenny, fell under suspicion of complicity with the designs of his father-in-law, Edward Stafford, Duke of Buckingham, and was imprisoned. He was released in 1522, upon sureties to the amount of 10,000 marks. Among those who went surety for him was Edward Ryngley of [Knol]ton,\* Kent, to the amount of 1007. (ib. 2712). Ryngley appears to have been knighted at the end of 1522 or early in 1523, and to have been appointed Master of the Ordnance, for on February 24, 1523, in accounts for providing horses for the ordnance, his style is Sir Edward Ringelay (ib. 2852). The occasion was the war with Scotland, which threatened to break out in March 1522. As Master of the Ordnance, Ryngley hired five ships for the conveyance of ordnance from the Tower Wharf to Newcastle (ib. 2896). The Earl of Surrey, the victor of Flodden, was appointed commander-in-chief on February 26, 1523. He evidently placed reliance on Ryngley, who was with him at Newcastle on October 11 following (ib. 3415). On October 7, Wolsey, writing from Hampton Court, acquainted Surrey that he had appointed Ryngley second in command of the castle of Norham on the Scottish borders, which, as bishop of Durham, the Cardinal garrisoned (ib. 3400). After the retreat of the Scots in the November following, Surrey wrote recommending Ryngley to Wolsey's favour as having 'served the king well' (ib. 3534). His reward was appointment as bailiff and verger of Sandwich on January 28, 1524 (ib. iv. 86). When, in April 1525, a war was anticipated with France, Ryngley was appointed assistant-master of the Ordnance under Lord Curzon (ib. 1261). He hired ships for the carriage of the artillery (ib.

p. 84); but the peace was not broken. On July 1, 1525, he was nominated a commissioner of jail delivery for Canterbury (ib. 1533), and on February 11, 1526, was placed on the commission of the peace for Kent (ib. 2002), and again on December 2, 1528 (ib. 5083), and in subsequent years. He was returned to the Parliament which met on November 3, 1529, for the borough of Dunheved in Cornwall ('Members of Parliament' in 'Parliamentary Papers,' 1878, vol. lxii. p. 368). He was appointed to the important post of Marshal of Calais on November 24, 1530 (ib. 6751), but he had already been employed there, for on September 21, 1528, he signed, as a commissioner of sewers, a report on the maritime defences of the place (ib. pp. 2234, 2236). As Marshal he ranked third in the government of Calais, after the Deputy and the Comptroller. He was associated with them in all measures for the safety of the town. His name is attached to a long report on the decay of the fortifications in February 1532 (ib. v. 787). It fell to his office to make arrangements for the lodging of distinguished persons in Calais on the occasion of the meeting between Henry 8 and Francis 1 on October 21 of the same year. At this time Cromwell was in the early stage of greatness, being as yet only Master of the Jewels, and Ryngley consigned him to indifferent quarters without a bed, expecting him to bring his 'own stuff' with him (ib. 1294, 1386). The mayor of Calais seized the opportunity of the king's presence there to protest against the invasion of his jurisdiction by the marshal in the matter of the arrest of a prisoner (ib. 1510). At the same time he complained of the class of measure of which this document is an illustration, 'the restraint made in England against victuals coming to this town without the king's patent or placard' (ib.). Ryngley, on the other hand, associated himself with the Council of Calais, of which he was a member, in recommending that when free exportation of corn was allowed from England, it should go by Calais only 'by which the king will have three customs instead of one' (ib. 1703, ii.). He imported cattle for his own consumption from England (vi. 1530). In March 1533 Lord Berners, the Deputy of Calais, to whose will Ryngley was a witness (ib. vii. 157), died (ib. vi. 240, 243), and Ryngley wrote to Lord Lisle anticipating with satisfaction that Lisle would be sent over to Calais as the new deputy (ib. 243). A very curious letter addressed by Wolfe Alarde, a French fifer belonging to the garrison of Calais,

\* The MS is mutilated.



to Henry 8 in 1534, shews that Ryngeley entertained strong hostility to the theological doctrines of the reformers. He sent the petitioner to 'prison on the walls' for fifteen days for disputing against the ecclesiastical observances of the Roman Church, and quarrelled with the king's chaplain, John Butler, who was also commissary of Calais, for taking his part. Alarde was subsequently brought before the Council, imprisoned for thirty-one days and banished the town for seven years as punishment for his theological opinions, for which he petitioned the king for redress (ib. vii. 585). In June 1534 Ryngeley was with the Court at Hampton Court Palace, whence he writes a letter expressing the king's approval of Lisle's measures for the strengthening of the defences of Calais (ib. 823). He wrote to Lisle from 'Nonyngton beside Sandwich' on July 20, announcing the intended embarkation of himself and his wife on the 28th (ib. 993). His religious intolerance found a strong sympathiser in Lady Lisle, with whom the correspondence shows him to have been on terms of close friendship, and who is described by Foxe, the martyrologist, as 'an utter enemy to God's honour, and in idolatry, hypocrisy and pride incomparably evil' ('Acts and Monuments,' ed. Townsend, v. 505). Attention had been aroused to their proceedings by the case of Alarde, which did not stand alone. On September 23 a friend of Lisle wrote from London warning him that it was said that this conduct was viewed with disfavour in influential quarters, and that it was said that Lady Lisle with Sir Edward Ringeley and Sir Christopher Garneys 'is the chief causer of these things' (ib. 1182). Holding these opinions, he must have received with much distaste his nomination on January 30, 1535, upon a commission (ib. viii. 149, [35]) to ascertain the tithes in Calais and the Marches granted to the Crown by Parliament in 1534 (26 Hen. 8, c. 3, §§ 8, 9). He had now fallen out with Lisle and was tired of his post (ib. 549). Early in February 1535, a friend of Ryngeley in London made 'hot suit' to Cromwell that he might be allowed to sell his place and return to England (ib. viii. 178). He designated as his successor Sir Richard Graynfyld (or Graynfeld), Lisle's nephew, who on March 17 obtained from the king a grant of the office on Ryngeley's death or surrender (ib. 410, 481, [25]). The bargain with Graynfeld was promptly put in hand (ib. 446, 549), the price being 400*l.* (ib. ix. 525). In April Ryngeley was back in England (ib. viii. 549). He assured Lisle that he would plead as a reason for his resignation 'the decay of the town,' but Lisle distrusted him, and it is evident from

a letter of his to Cromwell of April 16 that he and Ryngeley had had many altercations, the marshal, in Lisle's opinion, being prone to excessive severity of discipline (ib. 550, 559). The outcome of these squabbles was the appointment in May of a commission of inquiry (ib. 663). Ryngeley was refused an audience by the king, and ordered to return to Calais. He had, wrote Lisle's correspondent, John Husee, 'done no one harm but himself' (ib. 686). He was at this time married to his second wife, Jane, whose maiden surname is unknown, and Lady Ryngeley, who remained at Knolton, appears to have endeavoured to soften the differences between her husband and Lisle by courtesies to Lady Lisle, May 18, 1535 (ib. 731). In this she seems to have had some success. Ryngeley, who was 'very sick and not able to ride,' returned to England in a few days, having delivered to the commissioners a report 'on the wealth of the town' (ib. 794). He wrote to Lisle from Sandwich on May 24 in terms showing that friendly relations had, at least overtly, been re-established between them (ib. 757). But a dispute now arose between him and his contemplated successor, Graynfeld, apparently as to the purchase money of his place (ib. 1027; cp. 1074). He is described by Graynfeld as 'a very hard man' in this matter, which was only arranged by the intervention of Cromwell (ib. 1099). He returned to Calais, being still marshal, in July, to assist the inquiries of the commissioners, though continuing an invalid (ib. 1102). He had given a bond in 800 marks (533*l.* 6*s.* 8*d.*) to surrender his office by St. Bartholomew's Day (August 24), and had been paid 400*l.*, but Graynfeld appears to have been willing that he should not surrender till October 6 (ib. ix. 72). Graynfeld was, therefore, much disconcerted when upon presenting himself at Court on September 28, to take leave of the king, he learnt from Henry himself that Ryngeley 'desired to continue in his office' (ib. 525). The king had presumably been misinformed, for a letter from Anthony Pykeryng to Lord Lisle of January 17, 1536, shows that Graynfeld had already, but, it would seem, only recently, been installed as 'knight marshal' in Ryngeley's place (ib. x. 115). Nevertheless, if a letter from Ryngeley to Cromwell, dated 'Calais, January 20,' is correctly attributed to the year 1536, Ryngeley remained at Calais, but was anxious to obtain leave to return to England (ib. 135). He was in England on April 14, 1536 (ib. 669). His name is on a list of the gentry of Kent, on whom the government contemplated levying aid to suppress the Northern rebellion of that year, the number of the retinue expected of him being twenty men (ib. xi. App. 8).



Separation from the company of Lady Lisle had perhaps led to a modification of his religious opinions, for in 1537 he had commended himself to the favour of Archbishop Crammer, who recommended him to Cromwell for a share in the spoil of the monasteries (ib. xii. ii. 473; xiii. i. 1237). He showed himself as zealous in punishing priestly sedition as he had been at Calais against the reformed doctrines (Crammer to Cromwell, January 29, 1538, ib. xiii. i. 171; cf. xiv. i. 47). In May of that year he brought an action against Lord Lisle upon a bill signed by him. 'I would,' wrote John Husee to Lisle (May 8), 'he were paid, for he has a large mouth.' Crammer's recommendation bore fruit in the form of a grant for life by the Crown to Ryngeley, dated July 10, 1538, of the manors of East and West Kingnoth, Morehouse, and Wachenden, Kent, previously belonging to the Abbey of Battle (E. Hasted, 'Hist. of Kent,' 1790, iii. 283; L. and P. xiv. i. p. 594). In 1539, an invasion of England by the Emperor being threatened, measures were taken for erecting defensive fortifications along the coast. Ryngeley was appointed overseer of the construction of three blockhouses in the Downs, and also a commissioner for the defence of the coast of Kent (L. and P. xiv. i. 398). Although on May 24, 1535, Ryngeley had written from Sandwich to Lord Lisle, 'I never think to desire another room in Calais' (ib. viii. 757), probably with sincerity, yet on April 30, 1539, he received the grant of the office of Comptroller of Calais, vacant by the death of Lord Edmund Howard, who had filled the place while Ryngeley was Marshal there. The salary attached was 80*l.*, and the position was second only to that of the Deputy (L. and P. xiv. i. 906, 17). It is highly probable that the promotion was not of Ryngeley's own seeking, but that his selection was due to personal reasons. The friendship of France was doubted, and Calais was, in the event of hostilities, certain to be attacked. Its garrison was, therefore, being largely recruited (ib. 398). Reports had been received reflecting on Lisle's maintenance of the fortifications, while the religious zeal of Lady Lisle exposed his loyalty to suspicion. Ryngeley, on the other hand, had purged himself of his former religious sympathies, stood for the new order of things, was a stout and experienced soldier acquainted with Calais, and was known at Court to be on unfriendly terms with the Deputy. No person could have been chosen better fitted for keeping a watch on Lisle, and insuring the safety of the town if Lisle harboured a design to betray it. Being occupied with the construction of the blockhouses in the Downs, Ryngeley deferred his

departure for Calais till June 12 (ib. 1103). On June 22 he wrote to Cromwell from Calais complaining of the smuggling of wheat by English vessels, which entered into bonds to deliver it at Calais, but smuggled it out of Calais to Flanders (ib. 1146). His books of accounts, showing the details and cost of the works upon the fortifications of Calais, Guisnes and Hammes from June 1539 to Michaelmas 1541, attest the diligence bestowed by him on his military duties (ib. xiv. ii. 244; cf. xv. 948; xvi. 98, 99, 1219). As Comptroller, it also appears to have been his duty to register the wool sales of the Company of the Staple which was responsible for the payment of the garrison (ib. xiv. p. 93; cf. xv. 42). He maintained a correspondence with Archbishop Crammer, whom he supplied with wines (ib. xiv. 537). Lisle was summoned home on April 17, 1540, and on May 19 following sent to the Tower on suspicion of an intention to betray Calais to the Pope and Cardinal Pole. His goods were seized, and it fell to Ryngeley to make an inventory of them, July 7, 1540 (xv. 852, 853). Ryngeley also appears to have endeavoured to collect evidence about his designs (ib. 919). But he was anxious to leave Calais, being prevented, presumably by failing eyesight, from writing and reading, so that, as he complains, 'now my honesty rests with my clerks,' October 26, 1540 (ib. xvi. 199, 244). Religious dissensions still raged at Calais, and Ryngeley was now busy enforcing the Act for the Six Articles (31 Hen. 8, c. 14, [1539], ib. 234). In March 1541, however, he fell under suspicion of having warned Sir John Wallop of his impending arrest on a charge of treason. He was accordingly confined to his house by order of Lord Hertford, who had been dispatched on a commission to Calais. Hertford reported to Henry 8 that there was no reason to think Ryngeley's conduct due to any worse motive than folly and negligence, March 9, 1541 (ib. 599). The matter was overlooked and Ryngeley remained at his post, the Council writing on April 29, 1541, to the Deputy, Lord Maltravers, that Ryngeley was to retain the house occupied by him, which had been granted to the Chief Porter, apparently by inadvertence, April 29, 1541 (ib. 765). His name appears in a list as furnishing ten foot soldiers from Kent towards the army which, on July 22, 1543, invaded French Flanders in order to effect a diversion in favour of the Emperor (ib. xviii. i. 832). Ryngeley himself was transferred to the governorship of the fortress of Guisnes during the absence of Sir John Wallop, the general in command of the army (ib. 833). He obtained in the same year a grant of an annuity of 40*l.*, in which grant

D.<sup>1</sup>

1535. 23 July.

(Victualling of London.)

(Certificates of Shipment and discharge of cargo of victuals.)

To all and syngler ministers of our sovereign lord kyng to whom this our present wrytyng shall come to We the collectors of the Customs and Subsydy of our sayd lord kyng within the porte of Ipswyche, Certyfye you that John Grene of Seynt Osythes Inglysshe-man entendythe by goddys grace to lade in a bote of Seynt Osythes wherof the same John Grene ys mastyr Tenn Weyes chese and Tenn quarterys whete towards London to be convayed and ther to be delyveryd and dyschargyd, and at none other owtward places of the Realme and ther upon the same John Grene hathe putt in suffycient bonde accordyng to the kynges commaundement. In wytnes wherof the sealys of our offyce ys sette. Yeven at Colchester within the porte aforsayde the xxiiij<sup>th</sup> daye of July in the xxvij<sup>th</sup> yere of kyng henry the viii<sup>th</sup>.<sup>2</sup>

I Sir Johan Champeneys<sup>3</sup> dothe sertefy you the kynges collectors that all suche stufe a bove wryttin is delivered to Cleton the baker and the chese to Jamis Ketell the xiiij daye of Auguste.

Per me Johannem Champeneis militem maiorem civitatis london.

he is styled 'king's councillor' (ib. 982). But he was now ill, apparently with some disease of the leg, October 11, 1543 (ib. xviii. ii. 270), and his successor as Comptroller of Calais had already been nominated, August 28, 1543 (ib. 107, 54). He appears to have died in command of Guisnes early in November of the same year (ib. 449, 73; cf. ib. 365). His will, dated July 24, 1543, is printed in N. H. Nicolas, 'Testamenta Vetusta' (1826) ii. 702. He desires to be buried in Our Lady Church, Sandwich. His wife, Jane, to

whom he made bequests, survived him. He died without children, leaving bequests to his sister's husband, William Boys, and others of the family. He nominated Archbishop Cranmer 'overseer' of his will, leaving him three gilt bowls with a cover.

<sup>1</sup> R.O. MS., L. & P. Hen. 8, viii. 1907.

<sup>2</sup> 1535.

<sup>3</sup> Sir John Champeneys, Champneys &c., Skinner; sheriff of London, 1522; mayor, 1534-35; knighted, 1535; died, 1556; son of Robert Champneys of Chew, Somerset ('Dict. Nat. Biog.').

## APPENDIX III

A.<sup>1</sup> Anno xxv Henrici Octavi. 1533 (3 July).

A proclamation concerning Bouchers.

Henricus Octavus dei gracia Anglie et Francie Rex fidei defensor et dominus Hibernie Maiori et vicecomitibus Londonii salutem. Vobis mandamus quod statim post recepcionem presentium in singulis wardis parochiis et aliis locis infra civitatem &c et suburbia ejusdem tam infra libertates quam extra ubi magis expedire videritis ex parte nostra publice proclamari faciatis quaedam decreta per nos de advisamento consilii nostri concepta et facta que in quibusdam scedulis huic brevi nostro annexis per latorem presentium vobis mittimus mandantes preterea quod immediate post proclamaciones sic ut premittitur per vos factas omnes et singulas hujusmodi scedulas in separatis distinctis et publicis locis ut subditis et ligeis nostris plenius apparere poterit in tabulis poni fieri faciatis. Et hoc sub periculo incumbenti nullatenus omittatis. Teste me ipso apud Westmonasterium tertio die Julii anno regni nostri vicesimo quinto.

Pexsall.<sup>2</sup>

<sup>1</sup> Brit. Mus. Harl. MSS. 442. Plut. lxvi. D. fo. 115. See Introd., p. xlv.

<sup>2</sup> Ralph Pexsall, clerk of the Chancery. He appears to have begun his career in the household of Henry 7's mother, the Countess of Richmond (L. and P. Hen. 8, ii. 4183). She died in 1509, and in the following year he held some clerical appointment about the Court, since an appointment of one of the king's servants to a bailiwick on 8 April, 1510, is indorsed 'Mr. Pexall,' as if to be registered by him (L. and P. Hen. 8, i. 981). He married, not long after, Edith, second daughter and eventually sole heir of Sir William Brocas of Beaurepaire, Hants (see J. Nichols, 'Hist. of Leicestershire' [1798], ii. 833), also a landowner in Leicestershire and Northamptonshire. In consequence of this match he received a grant dated July 16, 1512, of the office of keeper of the king's 'deer hounds' or 'buckhounds,' which had been held by his father-in-law (L. and P. i.

3317, 5700). The circumstance that he married a Leicestershire heiress suggests that he may have been related to Richard Pexall, Abbot of Leicester from 1509 to 1533 (Dugd. 'Monast.' vi. 462; L. and P. vi. 1565), and it is to be noted that Richard was the name of his son. On June 3, 1513, he was placed on the Commission of the peace for Hants (ib. i. 4159, 4676, &c.), and for Surrey on Feb. 7, 1514 (ib. 4734), the former commission only being renewed in subsequent years (ib. 4676; iii. 2862, &c.), but that for Surrey not until 1528 (ib. iv. 5083). He was appointed on April 16, 1519, feodary and receiver-general of Crown lands in Hants (ib. iii. 206). He was granted the office of clerk of the Crown in Chancery, 'in consideration of his attendance on the king's matters in the Chancery,' on March 6, 1522, with a livery and a salary of 20*l.* per annum (ib. 2145), and an allowance of 100 marks (66*l.* 13*s.* 4*d.*) for a staff of clerks (ib. v. 1514). He



Where by an Act made in the Parliament begon iij<sup>o</sup> die Novembris anno xxi<sup>o</sup> Henrici viij and yt proroged and continued yt is ordayned emongest other thinges that Bochers & all other persons putting flesh to sale shall sell the same by weight by retaile to all and every of the kinges subjectes after such rates as by the same Act is expressed and specified, which Act the kinges pleasure & high comaundement is shalbe dylie put in execucion for the weale & benefyt of all his loving subjectes of this his Realme according to

appears on the commission of the peace for Devonshire in July 1522 (ib. iii. 2415), and subsequent years (ib. iv. 137, &c.), of which county Richard Pexsall had been pricked sheriff in November 1519 (ib. 500). On September 16, 1523, he obtained a royal writ to the Prior and convent of St. Mary's, Thetford, to be admitted to a corrody in that house (ib. iii. 3376). His signature appears to the writ, signed by Henry 8, on November 2, 1523, to the judges and law officers for the raising of a loan towards the expenses of the war in France in anticipation of the subsidy (printed in the 'Calendar of Inner Temple Records' [1896], i. 455). It is evident that his office brought him considerable emoluments in addition to his salary, for on July 24, 1525, he received payment of 13*l.* 6*s.* 8*d.* for sealing and writing the patents of creation as Duke of Richmond and Somerset and Earl of Nottingham of Henry 8's natural son, Henry FitzRoy (L. and P. iv. 1512). Upon the occasion of the embassy of Wolsey, who was then Lord Chaneellor, to France in the summer of 1527, Pexsall formed one of his suite of 900 mounted attendants (ib. 3216). He was recommended to Wolsey by his neighbour in Hampshire, Lord Sandys, of 'The Vyne' (see ib. v. p. 755), to be under-Treasurer, Sandys writing of him in his letter of July 2, 1528, as Wolsey's 'old servant' (ib. iv. 4454). But Wolsey was near his fall and the recommendation was unsuccessful. On June 20, 1530, he was nominated a commissioner of gaol delivery for Hants (ib. 6490). His wife died some time before June 1531, for on the 1st of that month Henry Courtenay, Marquis of Exeter, was granted a licence to alienate the manor and park of Swallecliff, Middlesex, and other lands in that county to a body of influential fcoffees, headed by Sir William Fitzwilliam, Treasurer of the Household, in trust for Ralph Pexsall and Anne, his wife, and their heirs in tail male (ib. v. 318). In March of the same year he was first put on the commission of the peace for Middlesex (ib. 166). He was present at the palace of Greenwich on

January 26, 1533, when the king appointed Lord Keeper Audley Lord Chancellor (ib. vi. 73). His name appears on February 2, 1535, as one of a list of persons bound by obligations to the king, the sum set against it being 33*l.* 6*s.* 8*d.* (ib. viii. 169), and in the same year he was assessed to the subsidy at 1000*l.* (ib. 478). He was still in debt to the Crown, in a sum unspecified, in 1536 (ib. x. 1257). His signature was appended to the proclamation of pardon on submission issued to the Northern rebels on December 9 of the same year (ib. xi. 1276). A letter from Thomas Pope, afterwards founder of Trinity College, Oxford, to Cromwell of July 17, 1537, says: 'Mr. Pexsall is dead, so I am now clerk of the Crown of the Chancery,' Pope having obtained the reversion of his office (ib. xii. ii. 274). Pexsall's widow had some post about the Court, for on November 12 following she was on the official list of ladies in attendance at the funeral of Queen Jane Seymour (ib. 1060, p. 374). His will was proved in the same year, he being described as of 'Blak freres, London; Beaureper, Hants; and Ickenham, Middlesex' ('Index of Canterbury Wills'). He lies buried by the side of his wife, Edith Brocas, under an altar tomb with their effigies, his being in chain armour with a pair of gauntlets at his feet, in the church of Sherborne St. John, one mile S.W. of 'The Vyne' (J. Murray, 'Handbook to Hampshire' [1898], p. 66). Livery of lands was granted to Richard Pexsall as son and heir by his first wife, Edith, on February 12, 1538 (L. and P. xiii. i. 384, 60). Richard Pexsall married (1) Alianor, daughter of William Paulet, K.G., first Marquis of Winchester, and (2) Alianor, daughter of John Cotgrave, of Chester (J. Nichols' 'Hist. of Leicestershire,' ii. 833). He was buried in 1571 in St. Edmund's chapel in Westminster Abbey, where an elaborate tomb, with the kneeling effigies of himself, his two wives, and his four daughters by his first wife, is yet to be seen (R. Ackermann, 'Hist. of St. Peter's, Westminster' [1812], ii. 116).

the true meaneing and tenour of the same And therefore he chargeth & comaundeth all & everie his subjectes exercising the crafte or mistery of Bouchers & all other putting flesh to sale that they shall use and order themselves according to the tenour of the said Act upon the paynes limited & conteyned in the said Act And forasmuch as the Bouchers and such other vittellers as shall put flesh to sale by retaile will paradventure refuse or grudge to obey & use them selves in retaile of flesh by weight according to the tenour of the same Act, objecting for their excuses that they cannot bye of the grasiers and such other Fermours as shall sell cattell in gross by the poll at such reasonable prices as they having any lyveing may utter the same by retaile by waight according to the tenour of the said Act. The kinges highnes therefore by his excellent wisdom considering that like as the said Act obligith the bouchers and other vittellers to sell by retaile by waight at reasonable prices limited by the same Act so likewise yt is sought to be understoud interprett & entended by good reason & equitie that the grasiers & other putting cattell to sale in grosse by the pole should & ought to sell the same cattell by pole to the Bouchers & other vittellers in grosse after such reasonable prices as the Bouchers may reasonable accomplishe and performe the effectes of the said Act, In consideracion whereof the king our souveraigne Lord straightly chargeth & comaundeth all & every grasiers farmers and all other his subjectes entending to put any manner cattell to sell by the pole in grosse to the saide Bouchers or to any other persons entendynge to retaile the same by weight according to the same Act shall utter & sell the said cattell in grosse of what kind soever it be at such reasonable prices as the bouchers & other byers thereof entending to retaile the same by weight to the kinges subjectes maie reasonable saveing to them selves a competent gaine for their lyving utter & sell the said cattell to the kinges subjectes by weight by retaile according to the tenour of the same Acte. And in case the said grasiers Farmours or eny other the kinges subjectes refuse thus to doe by reason of their greedy covetousnes & wilfulnes whereby the said good Act shalbe letted to take good effect according to the tenour of the same Then the king our Sovereaigne Lord is not onlie determined to punishe the offendours in that behalf but also to put such redresse therein as shall stand with equitie and justice for the weale of all his subjectes of this his Realme and over the offendours to incurre into his indignation and displeasure and to suffer punishment for the same at his will &c.

B.<sup>1</sup>

1533 (August).

(Sale of Meat. A Proclamation.)

Henry Rex.

By the king

Trusty and welbiloved we grete you well. And considering howe moche to the wealth, benefice, and commoditie of alle our subjectes it was enacted in the last session of our hiegh court of parliament and by our royall assent for a lawe establisshed, that befe motton and veale shulde be by the bochers solde by weight and at a certayne price, And understanding allsoo now, that the bochers shewing themself very glad, willing and conformable therunto, cannot in diverse parties of our Realme at convenient prices furnishe themselves of suche bief, motton and veale as for the necessary vitailing of our subgettes were requisite onles they shulde paye suche hiegh prices as executing our saide statute they shulde not be able to susteine the losse and detriment of the same, By reason wherof, as we be infourmed, diverse of them be compelled to leave occupieng, and consequently our subjectes for want of that vitaille, soo annoyed and encombred, as the remedy thereof requireth the ayed and helpe of our hiegh power royall, which we accompt ourself bounde to entrepone for their relief and comforte, And soo to foresee, that vitaille be so used and ordred in our realme as it maye be at convenyent price ministred to alle our subgettes indifferently, And forasmuche allso as the price limited in our hiegh court of parliament must nedes (not oonly to us but allso to all and singuler persons of our realme) be thought reasonable and indifferent as by alle astates assembled agreed and consented unto, and by reason therof, like as every our subgett must be content therewith and shewe himself conformable to doo all thing that maye further and avaunce the same, soo We removing and taking awaye the lettes and impedimentes shulde procure and cause the execution accordingly, have therfore, by these our letters auctorising you to call bfore you, with all convenient spede, all suche persons as be reputed in that shire to be notable grasiours and that have any nombre of befe motons or veales in their handes, gyve speciall chardge and commaundement to you to declare unto them the premisses, And theruppon gyving unto them oon our bihalf like chardge and commaundement that they wayeing in thaire myndes the force of the saide acte, and howe that a necessitie put to the bocher to sell at a certaine price, the same must extende to the sale to be made by

<sup>1</sup> R.O. MSS. (L. and P. Hen. 8, vi. 1052). See Introd. p. xlvii.



them to the bocher, without which the constraint of the bocher were voyde and frustrate, and remembring that bief motton and veale, being necessarye vitaille, must be for the sustentation of our people necessarily solde, and that if it cannot be at the bochers hand by reason of the statute bought but after a rate it must be to the bocher by provision solde after the same rate, lest for lak therof eyther our people shulde want or our lawes therin be frustrate. For these considerations they must soo ordre themselves in sale of suche beife, motons, and veales as they have in their handes, as the saide statute maye with satisfaccion of our people take due effect, signifieng unto them furthermore, that if the saide beef moton or veale being in their handes, ther arrise grudge, murmour or other inquietacion amonge our people or for want of the same to be bought at the bochers, In that cace we shall not oonly laye unto their chardge at their uttermoost perills the inconvenyence ensued by their default and their contempt and disobedience to the mynde of our lawes and the observation of suche proclamacion as we have made in that bihalf, but that we doo by these presentes auctorise you, whiche we allsoo sende unto you under our grete seale, to take up and put to sale according to the rate of the saide statute, suche and asmany biefes and motons and veales, in whose handes soo ever they be, as shall suffice for the sustentacion of our people in that shire. In whiche cace our pleasour is that ye disterbing<sup>2</sup> that shire, and understanding by the mayers and bailliefes in our townes and other rulers and officers in other places what shulde suffice their necessitie, ye cause to be delivered unto them from tyme to tyme, after suche price as may be agreeable with the rate of the statute, as many bieffes motons and veales as shalbe necessary for the convenyent vitailling of them, soo as for no mans private and particular gaine, our comynaltie contrary to theeffect of the saide acte, be eyther hindred in their due sustenance or greved in prices of the same. Wherin ye shall saye to all suche as have such bieffes motons and veales in their handes, that like as we wolde be glad tunderstande that uppon advertisment geven unto them by you and declaration of our commaundement they shulde shewe themselves confourmable therunto, soo not mynding eyther to see soo good and holsome a statute to be contempned, or our people to want, we have straitly charged and commaunded you to see the premisses executed accordingly, And

<sup>2</sup> Sic. Qu. a blunder for 'disterring.' Murray (Engl. Diet.) gives *sub* 'disterr,' 'to take out of the ground (Cotgrave); modern French, *déterrer*; Old French, *des-*

*terror*.' E. Littré, *sub* 'déterrer' (Diet. Franc. 1869) gives 'Découvrir ce qu'on cherehe, ce qui était caché,' so that the meaning here would be 'making effective search in.'

that if any further complaint shulde be made unto us herein we woll not faile to impute it unto your blame, whiche we entende allsoo to doo, and if you, whom we have (for the trust and confidence we have in you) specially chosen for that purpose to require the due execution hereof with our thankes or displeasour to ensue therof as your merite shall deserve.

And Forasmuche as our Citie of London conveyning suche a grete nombre of our subgettes as for theyr furniture of befe, moton and veale it hath been used to make some part of provision in that shire, and that suche as grasse and norishe those catall in that shire have been accustomed to sende the same to the market of our saide citie, certaine market dayes, ye shall geve like chardge unto them that they doo therin as they have been wont withowt forbering soo to doo for respect of the said acte. And in cace they doo not, ye shall likewise by our saide auctoritie provide for our saide citie, after the proportion and rate they have been used to have, and as request shalbe made unto you by the maire and the citizins of our saide citie in that bihalf. Geven under our signet at our castell of Windesour the <sup>3</sup> daye of August, the xxv<sup>ti</sup> yere of our reigne.<sup>4</sup>

C.<sup>1</sup> Anno xxv. Henrici Octavi. 1534 (29 January).  
A Proclamation concerning Bouchers.

Henricus Octavus dei gracia &c. maiori et vicecomitibus London Salutem. Vobis mandamus quod immediate post recepcionem presentium &c.

Forasmuch as yt is come to the knowledge of our most dread soveraigne Lord the king to his no litle displeasure aswell by relacion of many his noblemen & the complaint of others his subjectes of good house resorting to his high court of Parliament as also upon the piteous & lamentable exclamacion of others his poore subjectes That notwithstanding a good & laudable statut of late made to the reliefe of the common wealth of this his Realme for the prices of beefe mutton veale & porke to be sold by weight yet nevertheles the Buchers of London and other resortants to this citie of London with the same vittailles not regarding any lawe nor fearing the forfeitures & penalties conteyned in the same refusing & contemning the execution thereof woll in no wise sell the same vittailles according to the purport & prices expressed in the same statut. The kinges highnes therefore straightly chargeth & commaundeth all & every the said

<sup>3</sup> Left blank.

<sup>4</sup> 1533.

<sup>1</sup> B.M. Harl. MSS. 442, Plut. lxvi. D. fo. 117. See Introd. p. xlvii.

Bochers & vittailers and all other resorting to the same citie & other places adjoynte aswell within the liberties & places priviledged as without in every parte of this his realme that they & every of them sell the said vittailles of Beefe mutton veale & porke according to the purport of the same statut upon paine not onlie to forfeite the penalties conteyned & expressed in the said statut but also to pay for their disobedience & contempt such other greivous penalties Fines & sommes of money as by the kinges grace & his counsell shalbe sett upon them for their offences in this behalfe And also to make further answere at their uttermost perills And moreover the kinges highnes straightlie chargeth & commaundeth all Maiours Sheriffes Baliffes Constables & others his officers and faithfull subjectes to whome yt apperteyneth that they with all diligence see the same Act put in effectuall & perfyte execucion as they shall answere thereto and also avoyde the kinges high displeasure and indignacion and to see the offendours so continueing their obstinacie to be put in ward and prison there to remaine without baile or maineprise unto the kinges pleasure be further knowne in that behalf.

Et hoc nullatenus omittatis sicut nobis inde respondere volueritis. Teste me ipso apud Westmonasterium xxix die Januarii anno nostri regni vicesimo quinto.<sup>2</sup>

D.<sup>1</sup> Anno xxvij Henrici Octavi. 1535 (12 July).  
A Proclamation concerning Bouchers.

Henricus octavus dei gratia &c maiori et vicecomitibus London salutem &c.

Forasmuch as the kinges Magestie is credibly advertized and enformed that the Bouchers citizins occupying within the said citie have byn and daylie be at farre higher charges as in housrent lease-rent servantes wages and otherwise then anie forraine Buchers dwelling without the said citie be at, By reason whereof the said Bouchers citizens cannot have a lyving if they should continually be constreyned to sell beefferes muttuns veales & porkes by weight by retaile within the said citie at such prices as be limited in the Act made for selling of Flesh by waight unles yt should be to their utter losse and undoeing, His highnes therefore willing all the same Buchers citizens to have a reasonable lyving for the defence of their manifold charges is contented and pleased that from henceforth unto the second daie of Februarie next cominge the said Buchers citizens

<sup>2</sup> 1534.

<sup>1</sup> B.M. Harl. MSS. 442, Plut. lxvi. D. fo. 128. See Introd. p. 1.



shall sell flesh of the kindes aforesaid by weight by retaile unto the said second daie of Februarie in manner & forme followeing that is to saie every pound of beefe good & holsome for mans body for one halfpeny and a half farthing & no more, And every pound of mutton for three farthinges onlie and no more And every pound of veale for three farthinges and no more And every pound of porke for one half peny & half farthing & no more the Act of provision heretofore had or made for selling of flesh by weight by retaile to the contrarie hereof notwithstanding, The kinges Highnes straitly chargeing and comaunding all & everie the breeders broggers drovers Fermers Feeders & owners of such cattell that they & every of them furnish the Faires & markettes with such fat cattle as they have to sell in as large & ample manner as hath byn accustomed and to sell their said cattell at such reasonable prices as the said Buchers citizens which shall retaile againe the same by weight may utter & sell the same to his loving subjectes at such prices as are above limited as they will avoyd his Graces high displeasure and answere to the same at their uttermost perilles And that after the said second daie of February next comminge the said Buchers citizens selling flesh by retaile shall from thenceforth sell by weight by retaile according to the said Act made & provided for the same and at such prices as is limited in the said Act upon the paines and penalties conteyned in the said Act unto such daie & time as the kinges highnes shall otherwise limitt by his Proclamacion for the same. Wherefore the kinges highnes straightlie chargeth & comandeth all & singuler maiours Justices of peace Sheriffes Bayliffes Constables & other his officers & faithfull subjectes to whome it shall or in anie manner of wise may apperteine that they and everie of them cause this his proclamacion to be put in due & effectuall execucion as they will answere to his highnes at their uttermost perilles. Et hoc sub periculo incumbenti nullatenus omittatis. Teste me ipso apud Westmonasterium xii die Julii anno regni nostri xxvij<sup>o</sup>.<sup>2</sup>

E.<sup>1</sup> Anno xxxvj Henrici Octavi. 1544 (22 May).

A Proclamation made the xxii<sup>th</sup> daie of Maie in the xxxvj<sup>th</sup> yeare of the kinges Majesties raigne of the prices of Beefe Mutton Veale and Porke to be sold by weight.

Forasmuch as it is come to the knowledge of our soveraigne Lord the king that Butchers and other victuallers haveing more respect to

<sup>2</sup> 1535.

<sup>1</sup> B.M. Harl. MSS. 442, Plut. lxvi. D. fo. 199.

their owne private lucre & advantage then the Commonwelth of this his highnes Realme have raysed the prices of Flesh as of Beeffes Muttons Veales & Porkes to such excessive & highe prices that his loveing subjectes cannott gaine with their labors & salary sufficient to paie for their convenient victualles & sustenance onles that speedy remedy be provided in that behalf His Highnes therefore by the advise of his most honorable Counsell & by the authority of the Act of Parliament made in the xxxi<sup>th</sup> yeare of his Majestes raigne straightly chargeth & comaundeth that all & every the said Butchers & victuallers selling Flesh by retaile aswell within the citie of London & the suburbes of the same as in all other places within this his realme of England aswell within Franchises & liberties as without shall from & after xiiij daies next ensueing this presente proclamacon published & proclaimed according to the said statute sell the Flesh of Beefe Mutton Veale & porke being good & holsome for mans body by retaile by waight not above the prises & rates hereafter ensueing that is to saie betweene the xv daie of June & the Feast of the Birth of our Lord God yearely every pound of beefe to be sold not above the price of half penny & half farthing the pound, Every pound of mutton not above the price of a penny the pound & every pound of veale not above the price of a penny the pound And that the Flesh of beefes muttins & veales to be sold betweene the said Feast of the birth of our Lord God & the said fifteenth daie of June not above the prices & rates hereafter following that is to saie the pound of beefe to be sold not above three farthinges the pound, the pound of mutton not above a penny the pound & every pound of veale not above three farthinges & a half farthing the pound And also the Flesh of porke to be sold by retaile or otherwise not above the price of three farthinges the pound And furthermore the kinges most royall Majestie by the advise of his said Counsell ordeyneth & establisheth by the authority aforesaid that every person of what estate degree or condicon soever he be the which att anie time after the end of xiiij daies next ensueing the publishing of this present proclamacon shall sell anie parte or parcell of the Flesh aforesaid above the rates & prices above rated & expressed contrairie to the tenour of this present proclamacon shall loose & forfeite for every time so doing & offending x *li.* sterling the one moyety whereof shalbe to the kinges Majestie & the other moyety to the partie that will sue for the same by Informacon bill plaint accon of debt or otherwise in anie of the kinges cortes of Exchequer kinges bench or comon place or elles before such of the kinges most honorable Counsell as be

appointed to heere & determine the same by authoritie of the said Act in which suites none essoine or proteccon shalbe allowed nor wager of lawe receaved or admitted for the defendant And also the kinges most royall Majestie straightly chargeth & comaundeth all maiours sheriffes Justices of peace Bailiffes Constables & all other his officers & faithfull subjectes that they & every of them without favour dread affeccion or corrupcon shall put their effectuall endeavours for the due execucon of this his highnes proclamacon & for the punishment of the offendours thereof as they will answeare to his grace for the same att their uttermost perilles & will avoyd the kinges most high displeasure & indignacon. Provided alwaies that where the said Flesh of Beeffes muttuns veales & porkes within anye partyes or counties of this Realme be uttered & sold by retail or otherwise better cheape or after less prices then in this present proclamacon is lymitted & expressed that they shall sell the same att such like prices & after such rate as they doe & have used to doe before the making of this proclamacon anie thing or thinges in this proclamacon had or made to the contrary notwithstanding.



## APPENDIX IV

A.<sup>1</sup> To the king oure soueraigne lorde.<sup>2</sup>

1534     <sup>3</sup> Lamentably sheweth and complaynythe vnto your excellent Highnes your true and feithfull subject and dayly poure Oratour henry Selby sone and heyre of John Selby late of thyngden in the countie of northampton husband, That wheras the said John Selby of thyngden aforesaid was seased in his demeane as of Fee of and in a messe half a yard of land a closse called Grymes closse with thappurtenaunces set being and lyeng in thyngden aforesaid otherwise called the lordship of thyngden within the said countie of northampton which messe and other the premisses with appurtenaunces dyscended and ought to descend to the said henry Selby aftur the desceace of the said John Selby as right heire by inherytaunce So it is that oon John mulso of thyngden aforesaid Esquyer lord of the said lordship of thyngden hathe vexed and greatly troubleyd your said oratour by cause he wold haue your said oratour and all other tenauntes and inhabitantes within the said lordship to be tenauntes at wyll of the said mulso contrary to the custum which hathe ben vsed date out of mynd to be Socage<sup>4</sup> and<sup>5</sup> Auncyent demeane as

<sup>1</sup> R. O. MSS. Court of Requests, Bundle viii. no. 187. See p. 4.

<sup>2</sup> 'In that the Bills here be exhibited to the Majestie of the King onely and to none other and in that the Masters of Requests were sworne of the King's Councell and the Place hath continually been served with a Clarke that was ever therewithall one of the clarkes of the King's Priuie Seale, which is yet still the originall writ of this Court, it seemeth to communicate with the Starehamber it selfe and to derive her Authoritie immediately from the Royall Person and his counceill as that doth' (W. Lambarde, 'Archæion' [1635], p. 224).

<sup>3</sup> John Mulsho died at some time in the first half of the year 1535. (See p. 6, n. 4.) Selby's letter to Cromwell (p. 325) speaks of this bill as having been filed 'syn the last terme.' The riotous assemblage of the tenants of Thingden at Northampton is defi-

nately dated by Thomas Mulsho in his bill U (p. 61) as on February 25, 1534. It was presumably upon this occasion or on account of it that Selby was indieted at Northampton 'for trespass,' as he puts it—that is, accompanied by breach of the peace—and fined, and bound over to keep the peace; all of which must have happened in the course of the first half of 1534. I infer, therefore, that this bill was filed during the Long Vacation, the 'last term' referred to being Trinity Term, 1534; that Cromwell's letter to Mountague followed about Michaelmas term of the same year, and that Selby's letter to Cromwell, narrating Mountague's reception of it, belongs to the close of 1534, before the 'certificate' of the Commissioners dated January 20, 1535 (p. 328).

<sup>4</sup> See Introd. pp. lxxii; lxxxix.

<sup>5</sup> Apparently a blunder for 'in.'

maye appere of Record by the boke of domys daye so called, also the said mulso by his strong power came with certayne persons perforce into the grond of your said oratour and by extorcion did cary away a lode of haye<sup>6</sup> contrary to all right and conscience and made a saute upon Custance the wyf of your said oratour and wrongfully fellid xxvij trees of asche and wyche with an appletre and caryed them perforce from your said orators ground<sup>7</sup> against all right and conseyence<sup>8</sup> and your graces peace and lawe, And only bycause your said oratour wold not inclyne to be tenaunte at will of the said mulso,<sup>9</sup> Wherfore the same mulso of his subtyll and crafty mynd and purposing commensed an accion of trespasse agaynst your said oratour in the comon lawe and therevppon sued an nisyprus which was committed into the contre to northampton aforsaid and there passed agaynst your said oratour by reason of a forged courte Rolle which the said mulso brought in, and your said orator condempned in v markes against all reson and conscience<sup>10</sup> and furthemore the said mulso of his froward and yll mynd of further malyce wrongfully to entre into the said grond of your said orators commaunded to ij of his seruauntes and they caryed away a lode of hey and also put iiij horses of your said oratours into a pound<sup>11</sup> at burton<sup>12</sup> all day and nyght contrary to right and reason and good conscience, Also your

<sup>6</sup> This is a fresh complaint; but the incident may be alluded to in John Mulsho's answer in 1528 (G, p. 23), in which he says that he 'sequestryd the proffettes' of the holding.

<sup>7</sup> This is presumably the incident complained of in E (p. 17) and F (p. 20), to which on G (p. 22) Mulsho pleads that it 'is Mater determinable at the common law and not in this courte.'

<sup>8</sup> An appeal to the equitable principles of the Court of Requests. In 1583 Secretary Walsingham, writing to Thomas Seckford and Dr. Dale, Masters of the Court of Requests, described it as 'a Court of conscience, appointed to mitigate the rigour of proceedings in law' (S. P. Dom. El. Add. p. 99). Sir Julius Cæsar, enumerating the extensive range of subjects over which it asserted jurisdiction, mentions the case 'where goods are seized as forfeited by the lord of any manor.' See 'Select Cases in the Court of Requests' (1898), p. lxxxix.

<sup>9</sup> This was not true. John Mulsho was willing, upon terms, that he should be admitted to a customary tenancy—that is, in the usual formula of copyholds, 'at the will of the lord after the custom of the manor' (see M, p. 39, n. 13). John Mulsho's willingness, though not explicitly

stated in his answer (G, p. 22), is implied by his setting out in the usual formula of a copyhold the tenure of John Selby, from whom Henry Selby claimed, as well as by his complaint that Henry Selby had 'not offerde ne paydeno Reasonable fyne for the same ne orderyd him selfe in the hauyng of the same according to the custom of the said maner' (ib. p. 23). And that Thomas Mulsho was willing to admit Henry Selby on the same terms, which were, in fact, imposed upon him by the Court of Chancery, appears from his bill of complaint: 'that then the said Henry should . . . take the saide mese londe and close by copy of court roule . . . at the wyll of the lord after the custome of the manour' (U, p. 64).

<sup>10</sup> This was probably in the summer of 1529. Selby's suit in Chancery followed in the Michaelmas Term; see p. 317, *infra*.

<sup>11</sup> This second seizure of hay and impounding of four horses at Burton have not yet been heard of. In August 1529 Mulsho impounded four 'beasts,' and these he impounded at Thingden. See M, p. 42.

<sup>12</sup> Burton Latimer, distant 2½ miles to the north-west of Thingden. It was, therefore, a legal pound within the Statute of Marlborough. See M, p. 43, n. 36.

said oratour sued assise<sup>13</sup> in the comon lawe against the said mulso which was committid into the contrey to northampton and there passed against your said oratour by xij men by reason of a forged corte Rolle brought in by the said mulso, And more ouer of malyce and evill will the said mulso caused your said oratour and his wyf Custaunce to be indyted of trespasse at northampton<sup>14</sup> whervvpon oon Robert hunte baylyf to the abbot of Peturburgh<sup>15</sup> did take and kepe and yeat kepeth a cove of your said oratours of the price of xvj<sup>s</sup><sup>16</sup> for the fyne of vi<sup>s</sup> viij<sup>d</sup>, And the said mulso also demaunded and had the peace for malice only against your said oratour of Mr. Warner<sup>17</sup> Justice of peace in the countie of northampton aforesaid

<sup>13</sup> The phrase 'sued Assize' suggests the freeholders' action called the Assize of Novel Disseisin, and in his answer Mulsho says that Selby claimed his holding as 'freehold.' By that, however, he means nothing more than villein-socage in Ancient Demesne. As Blackstone puts it, 'these tenants . . . though their tenure be absolutely copyhold, yet have an interest equivalent to a freehold' ('Commentaries,' bk. ii. ch. 6, vol. ii. p. 100). As Mulsho goes on to explain (p. 322, *infra*), by 'Assise' Selby means the writ of *Monstraverunt*, tried at the assizes. But this writ implied tenancy in Ancient Demesne.

<sup>14</sup> As indictment would not lie for mere trespass; there must have been a breach of the peace. We know from Thomas Mulsho (U, p. 61) that on February 25, 1534, there was a riotous assembly at Northampton in support of Selby, and it seems probable that this, the indictment, and the binding over to keep the peace were all connected and belong to the same year.

<sup>15</sup> As lord of the Hundred. See F, p. 18, n. 7. The Abbot in 1534 was John Chambers, a native of Peterborough, who had been elected in 1528. He studied at both the Universities, and took his degree of M.A. at Cambridge in 1505. He surrendered the Abbey to the king in 1539, receiving as a reward for his compliance the munificent pension of 266l. 13s. 4d. and a hundred loads of wood, besides continuing in enjoyment of his lodging. He became a royal chaplain in 1539 and proceeded to the degree of B.D. at Cambridge the same year. Letters patent having been issued converting the Abbey into a Cathedral Church, he was consecrated first bishop of Peterborough on October 23, 1541. He acquiesced in the successive religious changes and died on February 7, 1556, being buried in the choir of his cathedral. His finely carved recumbent effigy was destroyed in 1643 ('Dict. Nat. Biog.').

<sup>16</sup> Rogers gives nineteen quotations of prices of cows in the hundred and forty years preceding the rise of prices in 1540. These average 15s. each. Selby's valuation may, therefore, have been a fair one ('Hist. of Ag. and Prices' [1882], iv. 333, 334).

<sup>17</sup> Edward Warner was probably one of the Northamptonshire men who at this time selected the Middle Temple as their Inn of Court. Among them figure in these pages Edward Mountague, William Saunders, and his nephew Edward, and Sir John Mordaunt. Edward Warner was admitted a member of that Inn on February 5, 1509 ('Middle Temple Records' [1904] i. 26). He evidently spent some years in the Inn (ib. 67, 77), and on February 3, 1525, was chosen deputy-Assistant-Reader (ib. 78). His first recorded official employment was in November 1513, when he was nominated a commissioner to make inquisition into the possessions, &c., of Edward Stafford, late Earl of Wiltshire (died, 1499) and others. In this commission he had as colleagues Thomas Isham and two Northamptonshire members of the same Inn, Richard and Edmund Knyghtley (L. and P. Hen. 8. i. 4587; 'Records, M.T.', i. 13, 26). He was nominated a commissioner to collect the subsidy in the county in 1523 (L. and P. iii. pp. 1366, 1457; iv. p. 239). His services were rewarded on December 12, 1524, by appointment upon the commission of the peace for the county, on which he remained during subsequent years (ib. iv. 961, 12; xi. 202, 13, &c.). Upon the occasion of the famine of 1527, he was commissioned to inquire into the supplies of corn in the county (ib. 3587, 2, 5, ii.). He was also made a commissioner of gaol delivery for Leicester and Northampton on June 20, 1530, (ib. 6490, 20). In 1531 his name first appears on the commission of the peace for Leicestershire, as well as for Northants (ib. v. 166, 10, 11). In the same year he was a commissioner of sewers for Northants and adjoining counties (ib. 278,



and also against Custance his wyf whereoppon the<sup>18</sup> were arrested and put in sureties to kepe peace against the said mulso and the said mulso hathe sued<sup>19</sup> and barred and yeat sueth and barreth your said oratour and other the forsaide tenauntes and inhabitantes from there right of the courte of thyngden wrongfully as evidently maye appere by certeyn wrytinges enceaied<sup>20</sup> and graunted by your moost noble grace<sup>21</sup> which are redy to be shewed before your moost honorable Consaile, And now your said oratour be reason of his said trouble costes and charges is brought into great pouertie for his right against all reason and vtterly vndoon onlesse your said highenes be good and gracious lord vnto hym in weye of right and justice and no otherwise In consideracion whereof it maye please your said highnes of your moost habundaunt grace to graunt vnto your said oratour your gracious lettres of commission directed into the contre to suche persons as shall be thought by your most honorable consaile most mete and convenyent to admynystre Justice in this behalf geving thereby vnto them auctoritie and commaundement ymediatly to call before them the said John mulso and they<sup>18</sup> said Henry Selby with other tenauntes there inhabitantes to make due examynacion of bothe parties and therevpon either to determyne fynally in this cace

17) and again in 1540 (ib. xv. 107, 7). He was put on the commission of the peace for Rutland on November 17, 1536 (ib. xi. 1217, 16) and in subsequent years (ib. xvii. 443, 57). After the suppression of the Northern rebellion of 1536, he was appointed a commissioner of oyer and terminer for treasons in Northants, Warwickshire, Leicestershire, Rutland, Notts, Derbyshire, Lincolnshire, &c. (ib. 1519, 13). He may, therefore, be taken to have been reputed favourable to Cromwell's administration, and shewed his zeal in 'viewing the musters,' that is, enlisting troops for defence against apprehended invasion in 1539 (ib. xiv. i. p. 283). From this document we learn that his home was at Broughton, where he undertook to raise seven recruits (ib.), though he does not appear to have held the manor there (Bridges, ii. 85). He is to be distinguished from another contemporary, Edward Warner, specified as 'of the Houshold,' or 'the king's servant,' who received various grants of lands, was sewer to the king, an active soldier, was knighted in 1544 (ib. xix. ii. 531, 532) and became lieutenant of the Tower. Besides the identifying phrase quoted, there is a letter of August 10, 1565, from this person, then at Spa, which speaks of 'going home to

Norfolk' ('Cal. of State Papers Domestic, Addenda,' p. 571), where he was lord of the manor of Plumstede in right of his wife Audrey, daughter and heir of William Hare of Beeston, Norfolk (F. Blomefield, 'Hist. of Norfolk' [1805], i. 498; vii. 244). He died in 1565 (ib.). Lastly, it is known that Sir Edward Warner was born in 1511, two years after his namesake became a member of the Middle Temple (see 'Dict. Nat. Biog.'). The name of Edward Warner of Northants disappears from the L. and P. after February 4, 1541, when he was appointed a commissioner of gaol delivery for Peterborough (L. and P. xvi. 580, 22). Broughton, where he lived, is three miles south-west of Kettering. Through Kettering to Thingden the distance is nine miles. This accounts for his intervention between Selby and Mulsho.

<sup>18</sup> Sic.

<sup>19</sup> Apparently for 'pursued' with the sense of persecuted. In Johnson's 'Dict.' (ed. R. G. Latham, 1870), sub 'sue' is 'follow, ensue. "Lechery that sueth alwaye gluttony." Liber Festivalis, fol. 5. (W. Caxton, 1483.)' But this only gives part of the connotation the word evidently has in the present connexion.

<sup>20</sup> I.e. sealed.

<sup>21</sup> This suggests other legal proceedings.

according to justice orelles to certyfy ymmediatly thereafter vnto your said consaile<sup>22</sup> in whom the defaulte is so as your said oratour may by your graces eade and helpe haue Justice and he shall dayly during his lyf praye to almighty god for the prousperous preseruacion of your moost noble and Royall estate long to endure.

(Signed with an undecipherable monogram, and in the same ink) v peces.

(Indorsed) Comittatur causa infrascripta humfrido Stafford militi<sup>23</sup> Thome Brudenell armigero<sup>24</sup> et Edwardo warner Generoso<sup>25</sup>

<sup>22</sup> This follows the ordinary tenour of such commissions, as may be seen in H, p. 27.

<sup>23</sup> For Sir Humfrey Stafford see Bareth v. Newby, p. 169, n. 10.

<sup>24</sup> Thomas Brudenell was eldest son and heir of Sir Robert Brudenell, the Chief Justice of the Common Pleas, who had died in 1531, by his first wife Margaret, sister and co-heiress of Thomas Entwysell, high sheriff of Lancashire and Warwickshire in 1483, and widow of William Wyville, of Stanton, Leicestershire. Thomas Brudenell inherited Dene, and was founder of that branch of the family, which became extinct in 1780 ('Dict. Nat. Biog.' sub Brudenell, Robert). Thomas Brudenell, like his father, the judge, was a member of the Inner Temple, being admitted on November 2, 1515 ('I. T. Records' [1896], i. 35). In 1523 he was one of the pledges of Sir William Fitz William, the elder, knight, the sheriff who in 1529 pulled down Mulsho's inclosures, as well as of William Fitz William, the younger, his son, and his son-in-law, Anthony Coke, on their admission into the Society (ib. 72, 73). He had chambers in the Inn, and at Christmas 1524 held the office of butler for the Christmas revels (ib. 80), and of marshal for those of 1532 (ib. 101). After this date his name disappears from the records, and he doubtless retired to the estate at Dene inherited from his father. His name first appears on the Commission of the Peace for Northants in December 1524 (L. and P. Hen. 8, iv. 961, 12) and in subsequent years. He was appointed an Associate of the Justices of Assize on the Oxford Circuit on February 12, 1527 (iv. 2027, 12). At the time of the famine in November 1527 he was a commissioner for Northants to inquire into the supplies of corn, &c. (ib. 3587, 2, 5). He was commissioner of gaol delivery on the Oxford Circuit in February 1528 (ib. 3991, 3) and on subsequent occasions. In 1532, after his father's death, and in subsequent years he appears on the commission

of the peace for the counties of Lincoln (Kesteven), Northants, and Rutland (ib. v. 1694, ii.) in respect of extensive estates inherited by him. He was sheriff of Rutland in 1534 (ib. vii. 1498, 13). At the dissolution of the lesser monasteries, Brudenell was one of the five commissioners who in 1536 reported to Cromwell on the priory of Augustinian canons at Broke, Rutland, as consisting of no more than one prior, eight servants, and two gamekeepers (ib. x. p. 499). After the suppression of the Lincolnshire rising of that year he was, on April 28, 1537, appointed a special commissioner to take indictments for treasons in that county (ib. xii. i. 1207 [5]). He was pricked sheriff of Rutland on November 14, 1537 (ib. ii. 1150, 18). In February 1538 his name first appears on the commission of the peace for Leicestershire and in subsequent years (ib. xiii. i. 384 [80]). The confidence of the Government in him is shewn as well by his appointment in Lincolnshire in 1537 as by his nomination as a commissioner of musters for Northants in 1539, when the country was apprehensive of invasion (ib. xiv. i. p. 281). He himself undertook to find armour ('harness') for eight men (ib.). There are evidences in the 'Letters and Papers' that he was active in local business. In September 1540 he was made a commissioner of sewers for Northants, Lincolnshire, Cambs, and Hunts (ib. xvi. 107, 7), and in 1542 and 1543 a commissioner of oyer and terminer on the Midland Circuit (ib. xvii. 443, 25; xviii. i. 226, 9). He was pricked sheriff of Northants in November 1543 (ib. ii. 449, 79). He acquired the advowson, &c., of Slawston, or Slawton, Lincolnshire, which had been appropriated by the abbey of Oulveston (Ouston) in that county from a private vendor in 1544 (ib. xix. i. 278 [76]). But he was one of the few men of position who did not share in the general scramble for the estates plundered from the monasteries. At the coronation of Edward 6 on February 20,



vel duobus eorum ad audiendum et determinandum super etcetera  
velli ad certificandum etc crastino animarum proximo etc. Jniun-  
gendo parti defendenti tunc ad comparandum Sub Pena c li per se vel  
per Sufficientem Attornatum suum autorizatum sub sigillo suo &c.

Wylliam Sulyerd.<sup>26</sup>

1547, he was made a knight of the Bath (W. A. Shaw, 'Knights of England,' i. 151). His death took place in 1548. He married Elizabeth, daughter of Sir William Fitz William, the sheriff of Northants, in 1529, by whom he had several sons and daughters, and was succeeded in his estate at Dene by his eldest son, afterwards Sir Edmund Brudenell (Bridges, ii. 301).

<sup>25</sup> The style 'generoso' (gentleman) applied to Edward Warner may be used either as the style of a younger son or to indicate that his social pretensions were not equal to those of the knight and squire with whom he is associated. Camden tells us that esquires are either 'Esquires of the Body,' or the eldest sons of knights, or of barons' younger sons, or those named esquires by the king and their eldest sons. The fifth grade of esquire is that arising from official dignity, which he regards as an innovation of the time of Richard 2. Gentlemen ('generosi') are such as are of good family or such as valour or fortune 'has raised out of the dregs of mankind' (Gul. Camdeni 'Britannia' [Amsterdam, 1639], p. 71). As Warner does not seem to have held any manor in Northants, he would not rank on the same level as Brudenell. The name is common in Norfolk, and it is possible that he immigrated into Northants on marriage.

<sup>26</sup> Sir William Sulyard, as he also signed himself ('Select Cases in the Court of Requests,' Selden Soc. [1898], p. 43), was eldest son and heir of Edmund Sulyard, lord of the manor of Flemyng's in the parish of Runwell, Essex. His mother was Edmund Sulyard's first wife, Elizabeth, daughter and heir of Thomas Copdowe by Anne his wife, daughter and co-heir of Sir Thomas Flemyng of Runwell. The father of Edmund Sulyard was Sir John Sulyard, appointed on October 22, 1485, a Justice of the King's Bench. William Sulyard was admitted a member of Lincoln's Inn on February 20, 1512 ('L. I. Admission Register' [1896], i. 35). He acted as auditor of the Steward's accounts on February 6, 1516 ('Black Books of L. I.' [1897], i. 179), and on several occasions of those of various officials of the Inn. He received the sums collected in 1517-18 for building the library (ib. 185, 187), and is styled in 1519 'supervisor and paymaster for the woodwork of the Library and the building of the new

gate,' the existing gateway of the Inn in Chancery Lane (ib. 191; cf. 194, 196, 199, 200). He was appointed on November 1, 1522, to serve as butler for the Inn at the Christmas revels, that is, he was in charge of the wine and aided the marshal in keeping order (ib. xxxii.); and was elected Pensioner on the same day, an office in which he was responsible for collecting dues from the members of the Society and discharging some of its expenditure (ib. 203 and xxi.). In 1523, as a reward for his 'payne and labour . . . taken abowte the byldyng of the new Gate House,' he was, with a joint-tenant, assigned a chamber rent-free for life (ib. 204). He was marshal for the Christmas revels in 1526 (ib. 215) and was made on November 1, 1527, keeper of the 'Black Book,' in which such particulars as these are recorded, for twelve months. By this time he had become a man of mark outside the limits of Lincoln's Inn. His association with Sir Thomas Lovell, K.G., who contributed largely to the building of the new gateway and whose arms still adorn it, may have introduced him to Court favour. His first official appointment was upon the commission of sewers for Middlesex on February 11, 1529 (L. and P. iv. 5336, 11). On October 31, 1530, he is styled 'one of the king's councillors' and granted an annuity of 100*l*. (ib. 6751, 12). He was on February 28, 1531, named one of four commissioners to 'make inquisitions concerning pirates and piracies, and to hear and determine all such cases' (ib. v. 35). At the head of this commission was another member of Lincoln's Inn, Sir Arthur Plantagenet, Viscount Lisle, vice-Admiral of England ('Black Books,' i. 161). In the same year Sulyard was placed on the commission of the peace for Suffolk (L. and P. v. 119, 2). To him, as one of six joint-feoffees, among them Robert Wroth and John Judde, both of whom figure in these pages, Henry Courtenay, Marquis of Exeter and Gertrude his wife, received licence to alienate the manors of Edelmeton, Saysbury, and Caustens, &c., Middlesex, on May 20, 1532 (ib. 1065, 28). In the following November he and his joint-feoffees obtained a licence to alienate a moiety of these estates to Stephen Gardiner, bishop of Winchester and five others, to the use of Balthazar de Guercii, surgeon to the Queen Consort, Katharine of Aragon (ib. 1598, 3). He was now a governor of



Lincoln's Inn ('Black Books,' i. 232), where he still continued to manage the financial business of the buildings (ib. 240) and where he constantly acted as chairman of councils. He is probably the 'Master Sullyerd' who, with other privy councillors, received from the king a present of plate on January 1, 1533 (L. and P. vi. 32). He maintained a correspondence with Lord Lisle, then Deputy of Calais. Lisle sent him presents of wine and quails in 1535 (ib. viii. 422, 939). In the following year Lady Lisle sent him wine (ib. x. 739) and consulted him on legal business (L. and P. 856, 995). While Lord Lisle was Deputy of Calais, his correspondence, published in the 'Letters and Papers,' was full of references to Sulyard and mention of the dispatch of presents of quails and wine. Sulyard's name appears in the lists of the Privy Councillors who sat as judges in the Court of Requests, in which capacity he signed here ('Select Cases in Ct. Req.,' pp. civ, cv, cvii, cx, 43). He seems to have been rather a man of business than a courtier, but he was among those present at the christening of Prince Edward on October 15, 1537 (L. and P. xii. ii. 911, ii.). He was at the close of the year dispatched by the Privy Council to Wales on business connected with the delimitation of the shires (ib. xii. i. 1091 and ii. 958. See 27 Hen. 8, c. 26 and 28 H. 8, c. 3). Cromwell fixed his salary at 200*l.* a year (ib. ii. 1151, 1, 2). For the purpose of this mission he was appointed on the commission of the peace for Gloucestershire on November 26, 1537 (ib. 1150, 34), and both he and Edward Mountague were trying prisoners for treason at Gloucester in February 1538 (ib. xiii. i. 358). His position was that of a member of the Council of the Marches of Wales and Justice of Chester and Flint, to which he was appointed on January 15, 1538 (ib. 190, 18). Under the vigorously repressive administration of Bishop Roland Lee, President of the Council in the Marches, Sulyard's office was no sinecure (ib. 371). His appointment was followed in February by his nomination on the commissions of the peace for the counties of Hereford and Worcester (ib. 384, 18, 21), and in March he rode with Bishop Lee from Shrewsbury to Hereford, where they sat as judges of Assize, apparently stamping out disaffection by executions (ib. 426). He may be taken to have been in favour of the religious changes, as indeed his promotion implies, and on April 8, 1538, he, the Bishop, and John Pakyngton, a justice of North Wales, wrote to Archbishop Cranmer, and to the Bishops of Worcester (Hugh Latimer) and

Rochester (John Hilsey) an account of the examination of a prisoner for slanderous words (among them 'heretic') against their lordships, and desiring to know the king's pleasure and theirs with regard to him (ib. 715). Between November 26, 1537, when he was nominated on the commission of the peace for Gloucestershire as 'Will. Sulierd' (ib. xii. ii. 1150, 34), and February 4, 1538, when in the list of justices of the peace for Herefordshire he is 'Sir Will. Sulyerd' (ib. xiii. i. 384, 18), he was knighted, probably before setting out for Wales. His energy in repressing disaffection was doubtless his recommendation for appointment on July 4, 1538, as head of a commission of oyer and terminer for treasons in the counties of Oxon, Berks, Worcester, Gloucester, Hereford, Salop, and Stafford. Though the commission comprised 36 names, Sulyard, or Sir John Porte, or Edward Mountague, was always to be of the quorum (ib. xiii. 1519, 14). In February 1539 this appointment was renewed (ib. xiv. i. 403, 17). He was commissioned, together with Bishop Lee, to suppress the Abbey of Wigmore in Herefordshire, which was dissolved on November 18, 1538 (ib. xiii. ii. 736, 868). When, early in the following year, measures were being taken for the defence of the coasts against apprehended invasion, Sulyard was one of six commissioners for the defence of South Wales under the presidency of Bishop Lee (ib. xiv. i. 398). He and Lord Ferrers, one of this commission, wrote to Lee on April 4, 1539, an account of the measures they had taken in the shires of Carmarthen, Cardigan, and Pembroke (ib. 696). He and the Bishop were again commissioned on August 24 of this year to take surrender of the monastery of Haghmon or Haughmond, Salop (ib. ii. 78), which was surrendered on September 9 following (Dugd. 'Monast.' vi. 107). This was his last recorded official act. On March 24, 1540, Bishop Roland Lee reminds Cromwell that he 'wrote lately of the death of his fellow, Sir William Sulyard' (ib. xv. 398), which probably occurred at the end of February or the beginning of March, since on February 9 Sulyard's commissions had been renewed for Cheshire and Gloucestershire (ib. 282, 34, 35). He held two parts of the manor of Flemmyng's and land, &c., in nine parishes in Essex, as set out in Morant's 'Essex,' ii. 42, from the Inquisition of May 31, 33 Hen. 8. In the probate of his will he is described as of 'Ludlowe, Salop,' the seat of the Government of Wales, where he probably died (J. C. C. Smith, 'Index to Canterbury Wills').

B. The Aunswer of John mulsho esquier to the bille of Com-pleynt of henry Selby husbondman.

The Seid John mulsho seythe that the seid bill of compleynt is incertayne and insufficyent in the lawe to be Aunswered unto and the more parte of yt vntrue And the matter therin conteygned Slaunderusly Contryved by the seid henry Feyned of malyse to put the seid John to Costes and exacyons and troublez nowe in his greate age and impotencye,<sup>1</sup> The Auantage of all the premyssez to hym saued For declaracyon of the trouthe the seid John seithe as to the Force and Armez and other mysdemeanourz surmysed to be done Ageynst the Kynges peace he is therof not gylty, And as to the entre in to one Close Called Grymez Close and Fellyng and Caryng Away of the said Wode and ij lodes of hey mencyoned in the said bille the seid John seithe yt is mater determynable at the Comen lawe and not in thys honorable Courte<sup>2</sup> Wherunto he prayeth to be remytted, And Further the said John mulsho seythe that the seid John Selby was seised of the seid mease halffe yerde londe and Close callyd Grymez Close and helde the same of Jamez Sterkey and other<sup>3</sup> then beyng seised of v partiez of the seid manor of Thyngden in eight partez to be devyded to thuse of the seid John mulsho by Copy of Courte Role at the Wille of the seid Jamez Sterkey<sup>4</sup> & other then beyng seised of the seid manour to thuse aforeseid accordyng to the Custome of the same manour And so beyng seised at a Courte holden at Thyngden aforeseid the x<sup>th</sup> daye of Septembre the xv<sup>th</sup> yere of kyng henry the Seuenthe<sup>5</sup> the seid John Selbye surrendred into the lordes handes there the seid mease and half yerd lond to thuse of the same John Selby and margery then his wiffe to haue to the seid John and margery at the wille of the lordes there after the custome of the same manour & For the Fyne of xxvj<sup>s</sup> viij<sup>d</sup> then payde the seid John and margery were admytted tenaunttes of the same and dyd their Fealty<sup>6</sup> And

<sup>1</sup> Having come into possession of the manor of Thingden, as he himself tells us (M, p. 38), in the 18th year of Edward 4 (March 4, 1478-March 3, 1479) he would, if that date marks his majority, in 1534 (the date, as the king's commission shews, of this action) be 77 years old, a great age at that period.

<sup>2</sup> On this demurrer to jurisdiction, see 'Select Cases in the Star Chamber' (1902), pp. lxxxi-lxxxi., and 'Select Cases in the Court of Requests' (1898), p. xxii.

<sup>3</sup> Sterkey was evidently one of a number of feoffees to uses, i.e. trustees. James Starky in 13 Hen. 7 (August 22, 1497-

August 21, 1498) alienated the manor of Knuston, or Knoston, by a fine (Bridges, ii. 183). Knuston is two miles S.-W. of Higham Ferrers, Northants, and therefore six miles from Thingden. If John Mulsho was, as is probable, a ward of Sterkey's, this would be a convenient place from which to manage the Thingden property. There was a Leicestershire family of the name (Nichols, iii. ii. 728).

<sup>4</sup> An important point. See *Inhabitants of Thingden v. John Mulsho*, E, p. 16, n. 4.

<sup>5</sup> 1499. See *Thingden, Inhabitants of, v. John Mulsho*, G, p. 22.

<sup>6</sup> See *ib.* p. 23, n. 12.



after the seid John Selby dyed after whos deathe the seid margery hym ouerlyued and is yet in pleyne lyffe, And the seid henry Selby withoute thassent and aggrement of the seid margery and not beyng admytted tenaunt in the Courte there or paying eny Fyne to the lorde of the same manour hathe of his owne Auctoryte & wroung entred into the premyssez contrary to the Custome there and all right and good Conscience, the seid John mulsho as well in the right of the same margery, As Also For that the same henry hathe not offered ne payed eny reasonable Fyne For the same ne ordred hymself in the havynge of the same according to the Custome of the seid manour, the seid John mulsho by thassent and sufferaunce of suche personez as then were seised of the seid manour to thuse of the seid John mulsho entred into the seid Close called Grymez Close and Cut downe and caryed away the seid wode and ij lodes of hey and toke the proffyttes of the same and toke the seid iiij horsez damage Fesaunt there and theym impounded as well and lawfull it was and is For hym to doo, And Ferther the seid John mulsho seythe that the seid henry Selby is a very Clamerus Fellow and hathe long inquyeted the seid John mulsho in dyuers of the kyngs honorable Courtes in suche wise that abowte viij yeres paste<sup>7</sup> the seid henry exhybit a bille ageynst the seid mulsho in the kynges most honorable Courte of Sterred Chamber For the premyssez wherunto the seid John mulsho apered by attourney and made Aunswer Wherupon ther was a Comysion awarded vnto Sir Robert Brudenell knyghte then beyng Cheif Justice of the Comen Benche Sir John mordaunt nowe lorde mordaunt Sir John Seynt John<sup>8</sup> and Sir Thomas Tresham knyghtes<sup>9</sup> to here and determyne the same matteres in the seid bille & Aunswer contaigned for the which Comysion the seid Comysion is appoynted to sytt at Thyngden aforeseid aboute Lammas then next folowyng<sup>10</sup> Where the seid Sir Robert Brudenell and the seid Sir John Mordaunte mett and the seid Sir John Seynt John and Sir Thomas Tressham For dyuers causez cam not at the which tyme Came before theym as well the seid John mulsho as the seid henry Selby and the seid margery Bett Wedowe mother in lawe<sup>11</sup> to the seid Selby and vpon moche commyncaeyon had by the seid Commyssioners in the seid matter the seid margery desyred theym in the way of charyte<sup>12</sup> that she myght be restored

<sup>7</sup> This must have been the complaint made by Henry Selby in Hilary Term, 1528. See Thingden, *Inhabitants of, v. John Mulsho*, F, p. 18

<sup>8</sup> For these commissioners, see *ib.* H, p. 25, nn. 2, 3.

<sup>9</sup> See *Barett v. Newby*, p. 170, n. 11.

<sup>10</sup> August 1, 1528. See *Thingden, Inhabitants of, v. John Mulsho*, I, p. 30.

<sup>11</sup> Step-mother. See *ib.* J, p. 32, n. 2.

<sup>12</sup> Implying that the petitioner has no remedy in common law; usual in petitions to the Prerogative Courts of the Star Chamber and the Requests, and borrowed



vnto the seid mease and one half yerd lond conteygnd in the seid Commyssion<sup>13</sup> According to a Copy of a Courte Role holden at Thyngden the x<sup>th</sup> day of Septembre in the xv<sup>th</sup> yere of kyng henry the vij<sup>th</sup>, And also to the thyrde parte of suche Freland For her dower<sup>14</sup> as the seid John Selby her late husbond and Father vnto the seid henry dyed seised of in the Towne and Feldez of Thyngden aforeseid the sight of which Courte Rolle the seid Commyssioners desyred which was then and there shewed to theym openly in the presens of dyuers of thinhabitautes of the seid Towne of Thyngden Where the seid Commyssioners toke an order and decre that the seid margery should have the seid mease and half yerd accordyng to the seid Courte Rolle Whiche is the Courte Rolle in the seid bille of compleynt by the seid henry vntruly surmytted to be Forged, And also they ferther awarded that the seid margery should haue the thyrde fote of all the freholde of her seid husband or the value in money And also that the said henry should haue the seid close called Grymez payng his Fyne accordyng to the Custome which mease half yerd lond and Close the seide henry hathe euer sythen kept and yet dothe and neyther performed the seid decre to the seid margery ne yet payed ether rent or Fyne to the seid John mulsho beyng lorde of the manour of Thyngden aforeseid euer sithe the seid tyme For the same and so still keapith the same contrary to all lawe and Consciens and the seid Custome, And For to contynewe his seid Clamerus Facyon the seid John mulsho seith that the seid henry aboute the xx<sup>th</sup> yere of the Reigne of oure seid soueraigne lorde that nowe is<sup>15</sup> exhybit one other surmysed bill in to thys honorable Courte<sup>16</sup> ageynst the seid John mulsho Wheruppon ther<sup>17</sup> a pryve seale awarded ageynst the seid mulsho to the which he apered by attorney and made Aunswer at the which tyme it was ordred and decered by this honourable Courte that Forasmoeche as the seid mulsho dyd proue byfore the Councell there by hys olde evydences Customaryez and Courte Rolles that the Fynez of the seid tenautes then compleynautes ageynst the seid John mulsho were not certeyne but determynable at the lordes Reasonable wille sumtyme more and ometyme lesse that the same mulsho and his heirez from hensforthe vppon sute and request to hym made by eny of his Copy holderes and tenaunttes there vse the cessyng of the seid Fynez reasonably<sup>18</sup>

from the pleadings in Chancery. See 'Select Cases in Chancery' (Selden Society, 1896), p. 5, n. 1.

<sup>13</sup> See Thingden, Inhabitants of, v. John Mulsho, L, p. 35.

<sup>14</sup> See ib. J, p. 32, n. 3.

<sup>15</sup> 1528. See ib. E, p. 15, n. 1.

<sup>16</sup> Printed among the Star Chamber documents as E, p. 15. See ib. n. 1; also Introd. p. lxxv.

<sup>17</sup> Sic, 'was' omitted.

<sup>18</sup> See Introd. p. lxxviii.

accordyng to his Customary Courte Rolles and presydencces which decree the seid Selby in no wise will obey in Contempte of thys honourable Courte Wherefore the seid John mulsho entred into the seid mease half yerd lond and Close called Grymez Close holden of the seid John mulsho by Copy of Courte Role and beyng parcell of the seid manour of Thyngden as lawfull was for hym to doo and was therof seised in his demeasne as of Fee vntill the seid henry reentred and the seid mulsho therof dysseised For the Which reentre the seid John mulsho Toke an accyon of trespas ageynst the seid Selby and he to the same apered and made aunswer Wher vppon they were at issue and by a substancyall Jury bothe partez beyng present with theyre Councell beefore the kynges Justyces of Assise at Northampton Founde with the seid mulsho and Juggement geuen on the same and the seid henry Selby condempned in Fyve markes<sup>19</sup> for Costes and damage to the seid mulsho And Ferther the seid John mulsho seyth that the seid henry not yet Content with the seid orderes made in the seid honorable Courtes nor nothyng regardyng the seid orderes taken in the same abowte michelmas then next folowyng<sup>20</sup> exhybyt one other byll of surmyse For the premyssez in to the kynges Courte of Chauncery before sir Thomas More then beyng lord Chauncellour<sup>21</sup> Wheruppon ther was a Commyssyon awarded vnto Edward mountague nowe serieaunt at the lawe steward vnto the seid John mulsho of his seid manour of Thyngden to here and determyne suche matteres as then were in varyaunce bytwene the seid mulsho and the seid Selby, For the Which Commyssion the seid Edward mountague appoynted a Courte at Thyngden the xxvij<sup>th</sup> daye of Aprell in the xxij<sup>th</sup> yere of the Reign of oure seid souereigne lorde<sup>22</sup> at the which tyme came before hym aswell the said John mulsho as the seid Selby<sup>23</sup> Where the seid

<sup>19</sup> 3l. 6s. 8d.

<sup>20</sup> Michaelmas, 1529.

<sup>21</sup> See *Introd.* p. lxxv.

<sup>22</sup> 1530.

<sup>23</sup> It is evident from what followed that Mountague's instructions were to adjudicate the fine. This was, in the first instance, the function of the steward, but only with the consent of the suitors of the Court, who, being themselves liable to fines, were interested to maintain them at the customary level. It must be remembered that until the practice of conversion of arable to pasture, which revolutionised the country-side, had become prevalent, the tenants of the manor were more important to the lords than they thenceforward became. Their independence, and the check exercised by them upon the manorial officers, is exhibited in the course of these proceed-

ings, as well as in the case of the Abbot of Peterborough v. Power and Others. See also 'Trans. R. Hist. Soc.' N.S. vi. 235, 251. Further, as will presently be seen, they enjoyed the protection of the Common Law Courts. Coke says in his 'Complete Copy-holder' (§ lvii.), of which the first edition appeared in 1630: 'If the Fine be unreasonable, though it be never paid, it is no Forfeiture: and it shall be determined by the opinion of the Justices before whom the matter dependeth, either upon a Demurrer, or in Evidence to the Jury, upon the confession or proof of the yearly value of the land, whether the Fine be reasonable or not; for if the Lords might assess unreasonable Fines at their pleasures, then most Estates by Copy, which are a great part of the Kingdome, and which have continued time out of mind, might now at

Edward mountague demaunded of the seid Selby What Fyne he wold geve vnto the seid John mulsho For to be admytted tenaunt vnto the seid meas half yerdes land and Close and he offered For a Fyne of the seid Close Called Grymez Close 1*d. ob.* <sup>24</sup> which he seythe is the cheif rent <sup>25</sup> of the same by one yere Which he seid was the Custome there, And as my lorde Brudenell beyng a lord there toke of his tenaunttes Which Close is yerly Worthe to the seid henry ouer and besydes the Cheffe rent v<sup>s</sup>. and so it hathe bene letten, And it apereth in a Courte Rolle dated in the thyrd yere of Richard the secound <sup>26</sup> that there was Geven For a Fyne of the seid Close x<sup>s</sup>. that notwithstanding the seid Steward offered the seid Close to the seid henry selby payng For his Fyne for the same v<sup>s</sup>. which he there refused to pay and said he wold geue no more Fyne but 1*d. ob.* Also the seid henry offered For a Fyne of the seid mease and half yerd lond v*s. ij d.* which is the Cheffe rent of the same by one yere Whiche he seith is the Custome there and as other lordes take of there tenaunttes there Which mease and half yerd lond is yerly worthe to the seid selby ouer and besydes the Cheffe rent vij<sup>s</sup> And it apereth in a Courte rolle dated in the xxvij<sup>th</sup> yere of kyng henry the Syxte <sup>27</sup> that there Was geuen For a Fyne of the seid mease by the Auncestourz of the seid selby iiij<sup>s</sup>, And also it apereth in a Courte Role dated in the xvi<sup>th</sup> yere of kyng Edward the iiij<sup>th</sup> <sup>28</sup> that there was geuen For a Fyne of the seid half yerd lond vj<sup>s</sup> viij<sup>d</sup>, And Also yt apperyth in a Courte Rolle dated in the xv<sup>th</sup> yere of kyng henry the vij<sup>th</sup> <sup>29</sup> that there was geuen For a Fyne of the seid mease and half yerd lond by the Father of the seid selby xxvj<sup>s</sup> viij<sup>d</sup> And the seid Selby Wold geue no more For the Fyne of the same mease half yerd lond and Close but v<sup>s</sup> ij ob. Which he seith is the Cheffe rent of the same vppon Whose demeanour the seid Edward mountague made Certyfycat vnto the seid sir Thomas more Wherefore he commytted the seid Selby vnto the Flete <sup>30</sup> Where he

the will of the Lords be defeated and destroyed, which would be very inconvenient.' Tenants in ancient demesne enjoyed the writ of 'Monstraverunt,' but if the decrec of the Court of Requests is correctly recited by Mulsho, whether this was an Ancient Demesne manor, or not, Selby was not a villein-sokeman and as such entitled to it.

<sup>24</sup> Obole, i.e. halfpenny. This is also stated by Thomas Mulsho in U, p. 60, possibly following this document.

<sup>25</sup> See F, p. 18, n. 7.

<sup>26</sup> June 22, 1379, to June 21, 1380.

<sup>27</sup> September 1, 1448, to August 31, 1449.

<sup>28</sup> March 4, 1476, to March 3, 1477.

<sup>29</sup> August 22, 1499, to August 21, 1500.

<sup>30</sup> The Fleet prison had stood, it is said, since the Conquest (T. Madox, 'Hist. of the Exchequer' [1711], p. 356) on the east side of Fleet Market, now known as Farringdon Street, and north of the Fleet Bridge, which connected Fleet Street with Ludgate Hill. (See the map of Farringdon Ward in W. Maitland, 'Hist. of London' [1772], ii. 960.) Dr. A. Jessopp has investigated its early history, from which it appears that in the twelfth and thirteenth centuries it was chiefly used as a debtors' prison, especially for debtors to the Crown. After the close of the fourteenth century 'the place seems to have been used as a prison to which any one



remayned by the space of one Fortenyght or more, And yet the seid henry not contented With the seid orderes but Ferther mynded to vex and trouble the seid mulsho of his vexacyus mynde purchased a writte of monstrauerunt<sup>31</sup> in the Comen place<sup>32</sup> ageynst the seid defendaunt in the Which the seid selby was moche Fauored and Was Admytted in Forma pauperis and had assigned to his Councell iiij serieaunttes at the lawe and his attourney to geue hym Councell without payng eny Feez For the same<sup>33</sup> Allegying in the seid monstrauerunt

might be sent on anything short of a capital charge.' Incarceration in the Fleet was a less severe punishment than in other prisons. ('The Economy of the Fleete,' edited by A. Jessopp, Camden Society [1879], pp. vi, xii.) According to Sir Thomas Smith, it was the prison of the Star Chamber, which repressed "the insolencie of the noblemen and gentlemen ... as well by words as by fleeing a while." 'De Repub. Angl.' (ed. 1906), p. 118.

<sup>31</sup> If, in a manor of ancient demesne, a mesne lord 'attempts to increase the customary services, some of the tenants, acting on behalf of all, will go to the royal chancery and obtain a writ against him. Such a writ begins with the word 'Monstraverunt.' The king addresses the lord: 'A, B, and C, men of your manor of X, which is of the ancient demesne of the Crown of England, have shown us that you exact from them other customs and services than those which they owe, and which their ancestors did in the time when that manor was in the hands of our predecessors, kings of England; therefore we command you to cease from such exactions, otherwise we shall order our sheriffs to interfere.' The lord being deaf to this command, another writ is sent compelling him to come and answer for his disobedience before the king or before the justices of the Bench. When the case comes before the royal court the complainants have in the first place to show that the manor is part of the ancient demesne; Domesday Book is used for this purpose as a conclusive test,' &c. (Pollock and Maitland, 'History of English Law,' i. 371). See further Introduction, p. lxxx.

<sup>32</sup> Pleas; pronounced as written in text.

<sup>33</sup> In 1495 an Act was passed intituled 'An Aete to admytt such persons as are poore to sue *in forma pauperis*' (11 Hen. 7, c. 12). It was passed upon a petition of the Commons, which it embodies. This was two years after the attempt of the Common Law Judges to restrict the activity of the Star Chamber, which would have been a consequence of the acceptance as law of their decision of 1493 that only the Chancellor and the Treasurer or the

Lord Privy Seal were Judges of the Court ('Select Cases in the Star Chamber' [1902], p. xxxv). It may, accordingly, represent a renewal on the part of the Commons of the struggle they had maintained during the fifteenth century in favour of the Common Law Courts and against the disposition of the Council to stretch its jurisdiction (ib. pp. lix, lx). During this struggle the difficulty of obtaining relief by the common law was constantly the pretext for the intervention of the Council. In 1429 a series of ordinances was agreed upon by both Houses, and received the Royal assent, prescribing the conduct and jurisdiction of the Council. The third article ran as follows: 'Item, that all the Billes that comprehend matters terminable atte the common lawe shall be remitted ther to be determined; but if so be that the diseresion of the Counseill fele to grete myght on that o(ne) syde and unmyght on that other, or elles other cause reasonable thai shal meve them' (Rot. Parl. iv. 343, a). This statute, though not incorporated in the printed 'Statutes of the Realm,' gave the Council plenary authority. The fifteenth article provides 'that the Clerk of the Counseill shal be sworn that every day that the Counseill sitteth on any Billes betwix partie and partie, that he shall, as far as he can, loke which is the poverest suitors Bille, that furst to be rad and answerd; and the Kynges Sergeantz to be sworn truly and pleylny to yeve the povere man yat for swiche is accept (i.e. for such (as) is admitted) to the Counseill, Assistance and true Counseill in his matier, so to be sued withouten any good takyng of hym on peyne of discharyng of their offices' (ib. 344, a). The Act for suits 'in forma pauperis' seems designed to attract the poor suitor back to the common law courts. No provision is made in the regulations of the legal business of the Council from which the above extracts are taken for furnishing the preliminary expenses to the pauper who solicited the Council's justice; and in days when officials earned their living by fees rather than by salaries these were sure not to be light. The statute of 1495 hit this blot

that he held the seid meas and dimidiate yerd lond of the said Mulsho to hym and to his heyrez Wherof trouth the seid meas and half yerd lond and other the premyssez be parcell of the seid manour of Thyngden and hathe bene vsed tyme without mynde to be letten by Copy of Courte Rolle by the lorde or his steward there For the tyme beyng and the tenauntes of the same haue vsed to paye Fynez For the same At the Reasonable<sup>34</sup> Wille of the lord<sup>35</sup> after the Custome of the seid manour as by the seid Courte Rolle mencyoned in the seid surmysed bille to be Forged<sup>36</sup> as also by dyuers other Customaryez<sup>37</sup> Courte

by empowering the Chancellor to issue writs original and writs of subpoena to poor suitors gratis, 'and also lerned Councell and attorneyes for the same without any rewarde taking therefor.' The issue of the writs being thus provided for, 'after the said writte or writtes be retorned, . . . the Justices shall assigne to the same pouer persone or persones Councell lerned by their discrecions which shall geve their Councelles nothing taking for the same, and in like wise the same justices shall appoynte attorney and attorneies for the same pouer persone and persones and all other officers requisite and necessarie to be hadde for the spede of the seid sutes to be hadde and made which shall doo their duties without any rewardes for their Councelles help and besynes in the same.' The form of the statute indicates that it was draughted as a tentative measure restricted to the King's Bench, possibly with a view to disarming the jealousy of the Council, but extended in its passage through Parliament to Courts of Record in general. However this may be, it is apparent that, so far as regulations were concerned, the suitor 'in forma pauperis' before the Common Law Courts was more adequately equipped than his fellow before the Council. It will have been observed, however, that the Council had authority to enlist the King's serjeants in the poor suitor's cause. Coke (2 Inst., 422), glossing the words of the statute 14 Ed. 3, c. 16, 'the king's serjeant sworn,' says, 'Albeit the king make choice of some serjants to be of his councell and fee, yet in a generall sense all be called the king's serjants, because they be all called by the king's writ.' But as this interpretation rests on the word 'sworn,' for the reason 'that every serjant is sworn,' it is open to question here. The Council, as a tribunal 'coram Rege,' would naturally command the king's law officers. In the case of the Common Law courts there could be no such power. But it is significant, as evidence of a competition to attract suitors, that the judges of the Common Pleas

placed the services of no fewer than four serjeants at Selby's disposal. It may be mentioned that the number of king's serjeants was indeterminate. The oath of the king's serjeant may possibly have had reference to the ordinance of the Council above mentioned. It was to 'well and truly serve the king and his people, as one of his Serjeants-at-law' (A. Pulling, 'The Order of the Coif' [1884], 40-42). It became the more desirable, in the interest of public justice that the plaintiff 'in forma pauperis' should be adequately represented by counsel when, in 1532, an Act was passed awarding costs to successful defendants, and adding that suitors 'in forma pauperis' should not pay costs, but 'suffer other punysshement as by the discrecion of the Justices or Judge afore whome suche suities shall depend shalbe thought reasonable' (23 Hen. 8, c. 15). 'It was formerly usual,' Blackstone tells us, 'to give such paupers, if non-suited, their election either to be whipped or pay the costs; though that practice is now (c. 1765) disused' ('Commentaries,' bk. iii. ch. 24, vol. iii. p. 400).

<sup>34</sup> See Introd. p. lxiv.

<sup>35</sup> See *Inhabitants of Thingden v. Mulsho*, E, p. 16, n. 4.

<sup>36</sup> Forgery was a statutory misdemeanour by 1 Hen. 5, c. 3 (1413), the punishment of depriving persons of their property by false deeds being, besides damages, fine and ransom at the king's pleasure. But the Star Chamber took cognisance of any kind of forgery, especially before the Act 5 Eliz. c. 14 (1562) made it a felony, that court having no jurisdiction in capital cases (see W. Hudson, 'Of the Court of Star Chamber' in 'Collectanea Juridica,' ii. pp. 65-71). Coke assumes forgery to have been within the statute, 'pro Camera Stellata' (3 Hen. 7, c. i.); but this is only a deduction, which, nevertheless, was made in practice, from the offences there enumerated (4 Inst. 63).

<sup>37</sup> 'Customary; a book or document setting forth the customs of a manor' (J. A. H. Murray, 'English Dict.' s.v.).



Rolles and presydenes<sup>38</sup> redy to be shewed more plenely it may apere Which Courte Role is trewe and not Forged and euery thyng therin conteygned matter of substaunce and trouthe and Wrytten by the handes of one henry Wykley gentleman<sup>39</sup> beyng a man of substaunce and reputacyon Which may dispend in londes aboue xx<sup>ti</sup> poundez by the yere Which then was vnder-steward of the seid manor vnto one Radulphe Lane<sup>40</sup> Esquyer the makeinge of Which Courte Rolle the seid henry Wykley will Justefy Wher soeuer he shalbe called For the same to the Whiche Wrytt of monstrauerunt the seid John Mulsho made Aunswer Wheruppon they were at Issue<sup>41</sup> of the whych the seid henry brought a Nisi prius to Northampton before the kynges Justyces of Assise<sup>42</sup> there in the first weke of lent<sup>43</sup> then next

<sup>38</sup> Precedents.

<sup>39</sup> The manor of Adington-Parva was at this time held by a family of the name of Wickley, Wykerley, &c. This place is, as the crow flies, about 3½ miles east of Thingden. In the 'Visitation of Northampton,' 1618, occurs the following entry: 'Henry Wycliff, alias Wickley, of co. York (2<sup>nd</sup> son of Giles Wykerley of Addington, co. Northampton, and . . . d. of . . . Starkey), married Elinor, daughter of Thomas Tawyer of Rands. Alice, their daughter, was the wife of Edward Fullhurst, of Wakerley' (Harl. MS. 1094, fol. 210. 'Northamptonshire Notes and Queries' [Northampton, 1890], p. 16). The name was a manorial name from Wykeley, Northants, now known as Weekley. The entry in the Harleian MS. shewing that Henry Wykeley married Starkey's daughter at once brings him into connexion with Mulsho.

<sup>40</sup> This is the Ralph Lane who, apparently, held a manor in Thingden in 15 Henry 7 (1499-1500), when the Court Roll impugned by Selby as forged was entered up. He was son and heir of William Lane, of Orlingbury, who died 17 Henry 7 (1501-1502). He married Catherine, niece of Sir Thomas Cheyney, of Irthlingborough, Northants, but had no issue. His estate in Thingden came from his grandfather, William Lane, of Thingden (Bridges, ii. 118; G. Lipscomb, 'Hist. of Buckinghamshire' [1847], i. 266). As he left Orlingbury to his brother William Lane, who died in 1526, he probably died early in Henry 8's reign (Bridges, ii. 118). Orlingbury is the next parish to Thingden, about 3½ miles to the west as the crow flies.

<sup>41</sup> 'When an issue is joined by these words,' and this the said A. prays may be enquired of by the country,' or 'and of this he puts himself upon the country, and the said B. does the like,' the Court awards a

writ of venire facias upon the roll or record commanding the sheriff 'that he cause to come here on such a day twelve free and lawful men, liberos et legales homines, of the body of his county, by whom the truth of the matter may be better known,' &c. (W. Blackstone, 'Commentaries,' bk. iii. ch. 23, vol. iii. p. 352).

<sup>42</sup> 'Now concerning justices of Nisi Prius, they were first instituted by the statute of Westminster the Second of issues joyned in the Common Bench (Commun Pleas) and King's Bench; and their authority is annexed to the justices of assise, and is by force of a judiciale writt,' . . . that is, to appear at Westminster 'Nisi Prius' the king's justices of assize come into the county (E. Coke, 4 Inst. 159; W. Blackstone, bk. iii. c. 23, vol. iii. p. 353). The Statute of Westminster the Second, c. 30 (1285), appointed two assizes to be held, or 'thrice in the year at the most.' By 14 Ed. 3, st. 1, c. 16, it was provided that Nisi Prius should 'be granted before the justices assigned to take Assizes.'

<sup>43</sup> In 1531 Lent began on Ash Wednesday, February 22. Hilary Term ended on February 13. The first week of Lent was neither within one of the Law Terms, nor one of the three periods specified in the Statute of Westminster the Second for taking Assizes in the country; that at the beginning of the year extending from the Epiphany (January 6) to the Purification (February 2). But by Statute 27 Ed. i. c. 4 (1299) it was provided that 'Inquests and Recognizances determinable before Justices of either Bench from henceforth shall be taken in time of Vacation before any of the Justices before whom the Plea is brought' &c. This change could not be brought about without the consent of the Church, which had already been formally obtained for the more important actions of Assize of Novel Disseisin, Mort d'auncestre and



Folowyng Where the seid John mulsho shewed Forthe aswell dyuers Auncyent Customariez Courte Rolles and presydenttes Concernyng the seid londes as also the seid Courte<sup>44</sup> Which is a trewe Courte Role provyng that the seid mease and half yerde Was copyholde and parcell of the seid manour and not Freholde as the seid Selby in his seid Accion vntruly had alleged<sup>45</sup> which was Founde then and there Ageynst the seid selby which was there present wythe hys counsell to maynteyne the seid Issue by a substancyall Jury Impaneled vppon the same and theruppon Jugement geuen Ageynst the seid selby as by matter of Recorde more pleynely yt maye appere<sup>46</sup> which in nowyse the seid henry Wille obey Which is the Assise<sup>47</sup> surmytted in the seid bill to be broughte by the seid henry ageynst the seid mulsho, And Further the seid John mulsho saithe that the seid selby not Content with all theys Wroung Full vexacyons done to the seid mulsho of late exhibit one other surmysed bill vnto the lorde Chauncellour that nowe is<sup>48</sup> to the Which the seid mulsho made

Darrein Presentment. All these three were possessory actions, a summary confirmation of seisin, leaving the question of property to be tried afterwards, and time was, therefore, an essential factor. The Statute of Westminster the First (1275), c. 51, runs: 'And forasmuch as it is great charity to do right unto all men at all times when need shall be, by the assent of all the prelates it was provided that assizes of Novel Disseisin, Mortdauncester, and Darrein Presentment should be taken in Advent, Septuagesima and Lent, even as well as Inquests may be taken, and that at the special request of the King made unto the Bishops.' On the prohibition of the Church to litigate during holy days see 'Britton,' c. 53. He tells us that in his day (c. 1275) 'Les evesques nequident et prelates de saint eglise fount dispensations que assises et juries sont prises en tiels temps per reasonable enchecons' (E. Coke, 2 Inst. 264, 265).

<sup>44</sup> Sic; 'rolle' omitted.

<sup>45</sup> On Selby's claim, see *Inhabitants of Thingden v. Mulsho*, E, p. 16, n. 5; and *Introd.* p. lxxxii.

<sup>46</sup> 'All justices of the Benches from henceforth shall have in their circuits clerks to inroll all pleas pleaded before them, like as they have used to have in time passed' (Statute of Westminster the Second, chap. 30). Upon this Coke comments: 'Now the cause of the making of this branch was that the king was informed that he might erect offices for entring and inrolment of records in his courts of justice, and specially before justices of Assize' (2 Inst. 425). [

<sup>47</sup> Selby used the word 'Assize' in its derivative and popular sense, the sitting of the judges, or at any rate, incorrectly, as Mulsho notes, 'monstraverunt,' not belonging to that class of action technically known as an Assize. 'The judges upon their circuits sit by virtue of five several authorities: 1. The commission of the peace. 2. A commission ofoyer and terminer. 3. A commission of general gaol delivery. . . . 4. A commission of assize, directed to the judges and clerk of assize, to take assizes; that is, to take the verdict of a peculiar species of jury called on assize and summoned for the trial of landed disputes. . . . 5. That of Nisi Prius, which is a consequence of the commission of assize, being annexed to the offices of those justices by the Statute of Westminster the Second, 13 Ed. 1, c. 30' (W. Blackstone, 'Commentaries,' bk. iii. ch. iv. vol. iii. p. 58).

<sup>48</sup> Thomas Audley, born 1488, educated at Magdalene College, Cambridge; Reader at the Inner Temple, 1526; Chancellor of the Duchy of Lancaster, 1529; Speaker of the House of Commons, 1529; King's Serjeant, 1531; knighted May 16, 1532; Lord Keeper, June 5, 1532; Lord Chancellor, January 26, 1533; created Baron Audley of Walden, November 29, 1538; resigned the Great Seal, April 21, 1544; died April 30, 1544 ('Dict. Nat. Biog.'). These pleadings, as the next document shews, must belong to the first half of 1534. Selby's bill in Chancery 'of late' would probably, therefore, have been in 1533.

Aunswer and vppon the sight of the same the seid lorde Chauncellour tolde the seid Selby that his matter was nought and that if he troubled hym eny more Withe the same he wold cause his heyrez <sup>49</sup> to be naylled to a pyllory <sup>50</sup> Without that that the seid John Selby was seysed in his demeasne as of Fee of and in the seid mease half yerd lond and Close Called Grymez with thappurtenaunces in maner and Forme as in the seid bille vntruly is aleged, And if he any suche estate had it was by wrong and by disseson done to the seid mulsho, And without that that the premyssez descended or of right ought to descend to the seid henry after the deces of the seid John Selby in maner and Forme as in the seid bill vntruly is surmytted, And Without that that the seid mease half yerd lond and other the premyssez be socage in Auncyen Demeane <sup>51</sup> or that the seid John mulsho haue vsed eny other Customez or taken eny gretter or larger Fynez of the seid Selby or of other his tenauntes there otherwise then hathe ben vsed to be taken within the seid lordship or maner tyme withoute mynde in maner and Forme as in the seid bill vntruly is Aleged, And without that that the seid Courte Role is Forged or vntrue in maner and forme as in the seid bill is aleged And Without that that the seid John mulsho demaunded or had the peax For malyce ageynst the seid Selby and Also Constance the wif of the seid Selby or had theym arested for the same <sup>52</sup> in maner and Forme as in the seid bill vntruly is aleged, And Without that that the seid John mulsho hathe sued and barred or sueth or barreth the seid Selby and other the tenauntes of the seid manour From theire right of the Courte of the same manour of Thyngden in manour and Forme as in the seid bill vntruly is surmytted And Without that that eny other thyng being materyall or trauersable and not before aunswered confessed avoyded or trauersed is true, And Forasmoche as the seid bill is insufficyent <sup>53</sup> For that the seid henry hathe alegged in his seid bill that the seid John mulsho shoulde perforce With certeyne personez entre into the Grounde of

<sup>49</sup> Ears.

<sup>50</sup> The practice of the day, both during Henry 8's reign and two centuries later, does not harmonise with Coke's doctrine that the pillory was intended 'for enormous and exorbitant offences, which require more exemplary punishment than an ordinary course of the laws of the realm do inflict' (3 Inst. 220).

<sup>51</sup> See Introd. p. lxxii.

<sup>52</sup> Coke, under the heading of Justices of the Peace, only contemplates arrest on felony or suspicion of felony, which included a great number of offences. 'So odious was

unjust imprisonment, or unjust deteyning of any freeman in prison, as in ancient time there lay a writ de pace et imprisonamento &c. ubi liber homo &c. uno modo propter injustam captionem, et alio modo propter injustam detentionem &c.' (4 Inst. 182). 'No man,' says Blackstone, 'is to be arrested, unless charged with such a crime as will at least justify holding him to bail, when taken' ('Commentaries,' bk. iv. c. 21, vol. iv. p. 286).

<sup>53</sup> The demurrers of insufficiency and uncertainty having been already raised, this last count appears to be an afterthought.

the seid Selby and there cary away ij lodes of hey and also xxvij treez of the seid Selbyez and neyther hathe aleged the nombre of the seid personez ne yet the Certentye of the seid Grounde nor Wher the seid Grounde lyeth Wherunto the seid John mulsho can make no perfytt aunswer For the insufficiency of the same the seid John mulsho prayeth that he may be dysmyssed oute of this honourable courte With his reasonable costes and Charges in this behalf susteyned.

C.<sup>1</sup> By the king.<sup>2</sup>

1534 Trusty and welbeloued We grete you wele. And by the contynue of a bill herein encloased ye may perceyue the complaynte of henry Selby agaynst John mulso. Whereupon We trusting in your wisdomes and indifferencies wooll and desire you that by auctorite hereof calling the said parties afore you in our name ye will groundely examyn them vpon the contentes of the said bill with the circumstaunces thereof Endeavouring you thereupon to sette suche finall order and determination therein as may stande with our lawes and iustice, So that for lacke of due administracion thereof in your defaultes the said parties shall haue no cause reasonable eftsones<sup>3</sup> to retourne vnto vs for farther remedy in this behalf And if ye cannot so doo conveniently that than ye certefie vs and our Counsaill the troeth and playnenes of the mater in writing vnder your seales by the next morowe after the purification of our lady next coming<sup>4</sup> yeveing Iniunccion in our name vnto the said partie vpon payne of c li. to appere personally or by his Attourney sufficiently auctorisid before v s. and our said Counsaill at the same day to thentent that We may farther do therein as the case shall rightfully require. Not failing thus to do as you tender our favour and the preferment of iustice. Yeuen vnder our privy Seale at our towne of Guldeford the viij<sup>th</sup> daye of August in the xxvj<sup>th</sup> yere of our Reigne.<sup>5</sup>

J. Hever.<sup>6</sup>

To our trusty and welbiloued syr humfrey Stafford knight  
Thomas Brundenell squier and Edward Warner gentilman<sup>7</sup>  
or to two of thaim.

<sup>1</sup> R.O. MS. Court of Requests, Bundle vi. No. 128.

<sup>2</sup> The Court of Requests, perhaps as being, according to its earliest style, 'the court of poor men's causes,' issued its writs of 'Dedimus Potestatem,' as in this case, in English. Three such are to be found in the 'Select Cases in the Court of Requests' [Selden Society, 1898], at pp. 54,

71, and 174. There are two writs of 'Dedimus Potestatem' printed in the 'Select Cases in the Star Chamber' (1902) at pp. 121 and 215, both in Latin, and others in this volume, pp. 25, 53, and 81.

<sup>3</sup> Again.

<sup>4</sup> February 3, 1535.

<sup>5</sup> 1534.

<sup>6</sup> Hevere had been the name of a knightly family in the fourteenth century



D.<sup>1</sup> To the honorable master Thomas Cromewell one of the kynges moost honorable Counsayell.<sup>2</sup>

1534 In mooste piteous and lamantable wyse Shewyth And Complayneth vnto your good Maistershippe your poore daly oratour and contynuall bedeman<sup>3</sup> Henry Selby of Thyndon in the countie of Northampton husbo(ndman)<sup>4</sup> aswell in his owne name as in the name of thenhabytauntes of the same towne to the nomb(er) \* \* \* persone(s)<sup>4</sup> (and)<sup>4</sup> aboue, That where in the tyme of kyng Edwarde the confessour the said Towne and lordeshipe with thappurtenaunces was and belonged vnto the said late kyng and to his Quene as parcell of her dower<sup>5</sup> as it dothe and at all tymes ys Redy to appyere in A booke callyd the booke of Domysday in the title of Aunycent demeane remaynyng in the kyng(s)<sup>4</sup> Receyt,<sup>6</sup> Fyve parties of which towne with thappurtenaunces be comen vnto the possession of one John Mulshoo<sup>7</sup> by what way or meane it is not perfytyl knowen nor howe ne of whome he holdyth the same<sup>8</sup> the whyche if it be well pervsyd and lokyd vpon and Ripely examyned, yt belongith and of Right owght to be long vnto our soueraign lorde the kyng do yt doth perfyte(ly)<sup>4</sup> appyere in the said booke callyd Domysday, whyche Mulshoo by the great alyaunce Frendeshipe and substaunce that he and his Freendes haue within the said Countie hath vntru(ly)<sup>4</sup> vsyd the same towne with thappurte-

which held the manor of Oving, Sussex. (D. G. C. Elwes and C. J. Robinson, 'Western Sussex' [1879], p. 160). John Hever obtained from the Cistercian Abbey of Stratford Langthorne, Essex, on May 27, 1535, a lease for 40 years at 20s. rent of a 'messuage within the precincts of the monastery' (L. and P. Hen. 8, xiv. i. 403, p. 162). He is there described as 'one of the clerks of the Privy Seal.' A grant of the reversion to the first vacancy among the four clerks of the Privy Seal, dated April 9, 1537, sets out their names, and from this it would appear that John Hever, being mentioned last, was the junior of the four (ib. xii. i. 1103, 15). His name appears with that of William Nevile as a joint feoffee to uses of six manors in Essex, evidently a settlement on the marriage of William Stafford and dame Mary Carye, on April 16, 1541 (ib. xvi. 779, 22). Another grant of a reversion to any second vacancy in the office dated November 17, 1542, shews the clerks to be as before and names them in the same order (ib. xvii. 1154, 59). His name does not again appear in the 'Letters and Papers.' The will of John Hever of Cuckefield, Sussex, was proved in 1558 (J. C. C. Smith, 'Index to

Canterbury Wills'). On the connexion of the clerks of the Privy Seal with the Court of Requests see A, p. 307, n. 2, supra.

<sup>7</sup> See A, p. 311, nn. 23, 24, 25, supra.

<sup>1</sup> R.O. MS. Letters and Papers Hen. 8, vol. vi. 1683.

<sup>2</sup> Cromwell was in 1534 the most powerful person in England. He had been made Chancellor of the Exchequer in 1533, King's secretary in April 1534, and Master of the Rolls on October 8, 1534. As powerful personages both at this time and long afterwards intervened in the course of justice, it is not surprising that the indefatigable Selby solicited the minister's influence in his favour, and appears from this letter to have obtained it.

<sup>3</sup> See p. 1, n. 2.

<sup>4</sup> Paper torn.

<sup>5</sup> See Introd. p. lxxxiii.

<sup>6</sup> See p. 36, n. 16.

<sup>7</sup> See Appendix, Henry Selby v. John Mulsho, B, p. 314.

<sup>8</sup> This cannot have been true if Selby had recently been fined 6s. 8d. by the Abbot of Peterborough as lord of the Hundred. See ib. A, p. 309. The appended list of grievances admits it.

naunces, And the tenauntes and inhabytauntes dwelling the(re)<sup>4</sup> whyche towne in tymes passed hath euer bene able to make our soueraign lorde the kyng c c good men to doo his grace seruice, And yet myght bee if the said towne and thenhabytauntes of the same were Rightfully and Charytably vsyd and handeled as theyre predycessours haue bene in tymes passed afore the said Towne with thappurtenaunces came into the possession of the Name of the said mulshoo,<sup>9</sup> whyche mulshoo by his great extorsyon and the mayntenaunce of his stewarde<sup>10</sup> haue vtterly vndone and enpouerysshed the said tenauntes of the said towne aswell for the takyng of theym extorte<sup>11</sup> and more larger Fynes for theyre landes beyng Auncyent demeane the(n)<sup>4</sup> theyre Auncestours euer vsid to paye and contrary to the tenure of Auncyent demeane where as they owght of Right for theyre Fynes but to doble theyre renttes euery tenaun(t)<sup>4</sup> Accordyng to his tenure whiche is a Fyne certeyne<sup>12</sup> as also hath made parte of theyre freholde copyholde wyth many other deedes of extorcyon vnlawfully and vnecherytably made doone and vsid by the said John mulshoo and hath caused to be doone by his procurement, of the whiche many of theym here vnder in a serule particularly dothe appyere in this byll, Soo it is most honorable good maister for Refor-macon to haue bene had of and for the said Inyures and wronges your said poore oratour exhibyt a byll syn the laste terme vnto the kyng our soueraign lorde<sup>13</sup> vpon the sight of the same your good maistership dyrectyd downe A Comaundement vnto maister Edwarde mountague sergiant at the lawe and high Stuerde vnto the said maister mulshoo comaundyng hym by the same tha(t)<sup>4</sup> he shulde see that your said poore oratour shoulde haue true Justice soo that he shulde haue noo Cause eftsones<sup>14</sup> to Complayne, Vpon the delyuere of whyche commandem(ent)<sup>4</sup> vnto the said maister mountague the said maister mountague veray sclenderly Regardyng the same said it was noo Comaundement but your maistership letter and soo that notwithstanding the said maister mountague euer sith that tyme and long

<sup>9</sup> 'In the fifth of Henry 4' (September 30, 1403, to September 29, 1404) 'a fine was levied in fee tail by John Mulso of a manor in Thingden; and the same year John Mulso with Aliee his wife paid a fine of two marks for an agreement to purchase Thingden manors. But which manor or manors he now became possessed of doth not certainly appear. This gentleman was son to John Mulso, the son of John Mulso of Goldington in Buekinghamshire.' (Bridges, ii. 258). John Mulsho, who figures in this protracted litigation,

appears to have been great grandson of the original purchaser (see the pedigree, ib. p. 259).

<sup>10</sup> An aspersion upon the impartiality of Edward Mountague and an imputation of the legal offence of maintenance, as to which see M, p. 44, n. 41.

<sup>11</sup> Extortionate.

<sup>12</sup> See Introd. p. lxxiii.

<sup>13</sup> Presumably the bill in the Court of Requests in 1534; see Appendix A, p. 307.

<sup>14</sup> Again.

tyme before hath vtterly denyed to doo vnto your said poore oratour true Justice as deothe appertayne to the true tenure of the said Towne to the vtter vndoyng and Fynall dystruccion of your said poore oratour his wyfe and poore chyl dren and all the tenauntes of the said towne and to the most peryllous example of all suche mynystres of Justice if Reformacon the soner by your most honorable maistership be not had in the premysses, wherefore at the Reuerence of God and in the way of Charyte<sup>15</sup> that yt woll please your said good maistership mouyd with pyte and mercy aswell for our soueraigne lorde the kynges advantage as for the ease and cvmforthe of your said poore oratour and all the tenauntes and inhabytauntes of the said Towne aswell to call afore your said good maistership the said mulshoo orelles the saide Stwarde and to knowe howe the said mulshoo came to the possession of the said Towne and lordeshipe and howe and of whome he holdyth the same and by what seruice as also to gyffe vnto the said maister mountague in stret Comaundement vppon the payne of one thousande poundes sterlinge that he mynstre and doo true Justice vnto your said poore oratour and all other the tenauntes there by a certeyne day certeyne day<sup>16</sup> by your good maistership to be lymytted accordyng to the true tenure and effect as it hath bene vsyd when the said lordeshipe was in the said late kynges handes and long tyme syth afore it came into the name of the said mulshoo, And this doone your said poore oratour and all the tenauntes and enhabytauntes of the said Towne and all the hole Countre about shall contynually pray vnto All myghty Jhesu for your said good maistership in felicite long to endure.

The vnlawfull Actes and deades of extourcyon doone by the said mulshoo and by his procurement here after ensuyth.

Fyrst the said mulshoo entered vpon the grounde of your said poore orator and vpon the same he cutt doone and caryed awaye asmoche tymber and other wood as aple trees and other lyke as dyd Amounte to the nombre of xxvij trees to the value of iiij li. sterlinge and Aboue as dothe apyere in the sterre chamber A byll of Ryott exibyt by your said oratour ageynst the said mulshoo.<sup>17</sup>

Item the said mulshoo hath doone & yet duly doothe enhance theyre Fynes and reentes contrary to theyre Custome And takyth From theym the Comens and makyth there Freeholde Copy holde and Cuttes vpp theyre wooddes growyng vpon theyre owne propre landes.

<sup>15</sup> See Appendix B, p. 315, n. 12.

<sup>16</sup> Sic; repeated.

<sup>17</sup> This is F, filed in 1528; see p. 18.



Item the said mulshoo hath causid your said poore oratour and his wyfe to be indyted vnlawfully at northampton whiche is owt of theyre lybertie and the said mulshoo by his procurement hath vnlawfully cawsyd the Abott of Peterborowe whoo pretendyth to haue the Realme of the said towne & lordeshipe to dystreyne your said poore oratour within the libertie & to take fromm hymm one melche kowe whiche shuld haue fownden your said oratour Chyldren sustynuanee and more ouer the shreeffe of the said Countie also by the <sup>18</sup> procurement wold dystrene your said poore oratour & wolde haue of <sup>19</sup> for the Fyne of the said vnlawfull and vntrue indytement vj<sup>s</sup>. viij<sup>d</sup>.

Item at euery Court holden at the said Towne when the tenaunttes bryng in theyre verdyt truely accordyng to theyre Custome & tenure of Auncyent Demeane the stuarde of the said Court wyll not entre the same <sup>20</sup> but after a shamefull maner Revyles theym and callyth theym Churles of Thynden and playnely sayeth that soo long as he ys Stuarde there they shall neuer haue yt other wyse whyche is a great mayntener of the same.

Item the said Stuarde keeping Courtes for one of the Copartiners beyng lorde of one parte of the said Towne and at the same courtes the said stuarde vsith the tenaunttes Rightfully and After the tenure of Auncyent demeane <sup>21</sup> whyche Stuarde sholde vse the Courtes of the said molsho and the tenaunttes in lyke maner whyche he hath not by a long tyme and space but when the <sup>22</sup> bryng in theyre verdyt accordyngly the said Stuarde wyll not entre yt nor Repreve it that it owgh <sup>23</sup> not to be entered by the space of iij yeres or aboue.

E.<sup>1</sup>

1535 The certificathe of sir humfrey Stafforde knyght Thomas Brudenell Esquier and Edwarde Warner Gentyلمان Commissioners of the mater in variance betwene Henry Selby Complenaunte of the oone partie And John moulso esquier oone the other partie by vertue of the Kynges Commission to theym directed taken at Thyngden the Twenty daye of January in the xxvjth yere of kyng henry the eight.<sup>2</sup>

Firste the seid henry in proue of his byll shewid before the seid Commissioners oone Copy of Courtrolle datyd the x daye of

<sup>18</sup> Sic; 'said' omitted.

<sup>19</sup> 'him' omitted.

<sup>20</sup> The lines from this to the end of the paragraph are struck through.

<sup>21</sup> See Intro. p. lxvii.

<sup>22</sup> Sic; for 'they.'

<sup>23</sup> Sic.

<sup>1</sup> R.O. MS. Court of Requests, Bundle vi. No. 128.

<sup>2</sup> 1535.

September the xv<sup>th</sup> <sup>3</sup> yere of kyng henry the vij<sup>th</sup> <sup>4</sup> maide to John Sylbye father to the Aboue namyd henry Selby of oone mese and halfe yarde lond to thuse of the same John and margarett his Wyef to haue to the same John and margarett At Wyll of the lorde After the custome of the maner <sup>5</sup> by the rente and seruice of olde tyme due and accustomed but too proue the seid mese and lande to be Fee symple, And to discend to the seid henry in fee symple as heire too John his father, the seid henry shewyd noo dedes nor chartures before the seid Commissioners for the proue therof.

Item the same henry shewid furth before the seid Commissioners the boke of Domesdaye exemplified vnder the grete Seale <sup>6</sup> too proue that the seid towne of Thyngden shuld be Aunciant demene, the Copy Wherof the seid henry delyuered to the seid Commissioners in a Seddell <sup>7</sup> in a papur Whiche is Annexid vnto his certificat.

Item the same henry schewith furthe oone Inquisicon taken in kyng Richard the seconde dayes exemplified vnder the grete Seale, by the Wiche it apperith that the inhabitaunce of the seid towne of Thyngden for that they holde in Aunciant Demene <sup>8</sup> schulde be discharged of Tole. <sup>9</sup>

<sup>3</sup> 'xvi<sup>th</sup>' struck through and 'xv<sup>th</sup>' interlined. Reference to John Mulsho's answer in *Inhabitants of Thingden v. John Mulsho* G, p. 22, shews that 'xv<sup>th</sup>' is correct.

<sup>4</sup> 'Eight' struck through.

<sup>5</sup> On the significance of this formula see *ib.*, E, p. 16, n. 4.

<sup>6</sup> It does not follow from this that the extract from Domesday as to Fextone had been produced to these commissioners, and it is among the Star Chamber documents (see *ib.*, K, p. 34, and *Intro.* p. lxxxiv). No Great Seal is attached to that extract, nor does it profess to be an 'exemplification,' but only a 'vera copia.' The form of an exemplification in the case of a decree in the Star Chamber is given in 'Select Cases in the Star Chamber' (1902), p. 188, n. 12, and of an exemplification of the Recovery Roll in Blackstone, 'Commentaries,' vol. ii. Appendix, p. xvii. In both of these cases the exemplification is in the name of the king, and prefaced with the royal greeting.

<sup>7</sup> Schedule. It is possible that this accounts for one of the two Domesday extracts as to Fextone among the Star Chamber papers, viz. the one without any certificate of origin, which was needless if the commissioners had seen the original. The 'vera copia' may have been that produced to Brudenell and Mordaunt in 1528. See *Inhabitants of Thingden v. John Mulsho*, K, p. 34.

<sup>8</sup> This is important. It is the first positive evidence, if it is to be relied on, that Thingden had in a judicial proceeding been held to be Ancient Demesne.

<sup>9</sup> The theory being that, as land in Ancient Demesne furnished the king's household with provisions, its tenants were exempt from payment of toll (*E. Coke*, 2 *Inst.* 542). The cases of the citizens of Exeter against the Mayor &c. of London in 'Select Cases in the Star Chamber (1902),' p. 73, and of Jettour alias Cotter *v.* the Mayor of Hull in 'Select Cases in the Court of Requests (1898),' p. 37, are instances of this exemption and of the importance attached to it. The writ on behalf of the tenants in Ancient Demesne, as given by Fitzherbert, recites that they are exempted 'a prestatione tolonei per totum regnum' ('Natura Brevium,' Tottell's ed., London, 1588, fo. 228). Fitzherbert's comment on this is that it extended to merchandise, 'car le bref est general, pro bonis et rebus suis' (*ib.* fo. 228 A). According to Coke, however, 'they are free and quiet from all mannor of tols in fairs and markets for all things concerning husbandry and sustentance' (4 *Inst.* 269.) The contention in the Court of Requests in 1533 was in accordance with Coke's doctrine, not with that of Fitzherbert, that they were liable for tolls 'for alle maner of merchaundyse bowght or sold by any of them except yt be of any suche thynges bowght by them as

Item As too the forgyng of the Courterolle in the same byll surmysed the seid henry brought before the seid Commissioners oone Henry Broke<sup>10</sup> Richard Ryley<sup>11</sup> Edmond petit Richard Walter<sup>12</sup> of Thyngden aforeseyd husbond wiche before the seid Commissioners sworne and examyned deposed and seid that the<sup>13</sup> coulde not denye but that the seid Courterolle wiche the seid henry Selby surmysed to be forged was writteyn maide and engrosed in parchement by oone henry Wekeley but the same deponentes wolde not sey nor confesse that they<sup>13</sup> seid Courterolle was forged. And the same cotype of the seid henry Sylby and courterolle before schewid to the seid Commissioners Agreed in euery worde after the same Cotype but the same Henry broke<sup>14</sup> deposed before the seid Commissioners that he surrendyd not the seid mese and londes before mencionyd in the seyde Copy to thuse of the same John Selby As in the same Copy and Courterolle is supposyd.<sup>15</sup> Neuerthelese it apperyth by the same Courterolle that they<sup>13</sup> same henry<sup>16</sup> schulde surrender &c.

Item, for the partie of the same John Moulso, oone Answer was put in before vs the seyde Commissioners the daye and yere Aboue seyde And Sworne before the seyde Commissioners the same answer to be true and ouer and besydes the same John shewyd diuerse decrez Arbitramentes recouerez<sup>17</sup> Courterolles and Custymarez hade agenst<sup>18</sup> the seid henry Selby for too disproue the byll and title of the same henry

nessessary for ther own howshold' &c. 'Select Cases in Court of Requests,' p. 39). That ease was probably decided in that sense, and it was held in Ward's ease in the Queen's Bench in 20 Eliz. (1578-9) that the privilege 'does not extend to him that is a merehant, or that trades and gets his living by buying and selling, but was annexed to the person in respect of the land' (T. Cunningham, 'Law Diet.' 1771).

<sup>10</sup> Henry Broke on September 10, 1499, at the manor court of Thingden acted as John Selby's attorney to surrender the mese and yard land. See *Inhabitants of Thingden v. Mulsho*, G, p. 22. The words 'Henry Broke' are interlined.

<sup>11</sup> The words 'Richard Ryley' are struck through. His name has not appeared before.

<sup>12</sup> Petit and Richard Walter were defendants in Mulsho's bill in the Star Chamber in 1529 and were therefore favourable to Selby.

<sup>13</sup> Sie.

<sup>14</sup> 'Richard Ryley' again struck through.

<sup>15</sup> The words 'As . . . supposyd' are interlined, and some words struck through, being apparently 'for the sayd henry was

not then dwellyng within the seyde towne.' Above 'henry' are interlined the words 'henry seith.'

<sup>16</sup> Interlined for 'John Ryley' struck through.

<sup>17</sup> 'A true reecovery is an actual or real recovery of anything, or the value thereof by Judgment, as if a Man sued for any Land, or other thing moveable or immoveable, and have a Verdict and Judgment for him. A feigned Reecovery is . . . a certain form or course set down by Law, to be observed for the better assuring of Lands or Tenements unto us; and the end and effect thereof is . . . to discontinue and destroy Estates tail, Remainders, and Reversions, and to bar the Intails thereof. . . . A Man that is desirous to eut off an Estate tail in Lands or Tenements, to the end to sell, give, or bequeath it, causeth . . . a feigned Writ of Entry . . . to be brought for the Lands of which he intends to eut off the entail, and in a feigned . . . Declaration thereupon made, pretends he was disseised by him who by a feigned Fine, or deed of Bargain and Sale, is named and supposed to be the Tenant of the Land. . . . Whereupon the Land is recovered by him that brought the Writ' (J. Cowel, 'Interp.' s.v.).



Al wiche decrez Arbytramentes recouereys Courterolles Custymarez the seyð moulso hathe promysed to schewe before the kynges most honorable Councell<sup>19</sup> And Wee the seid Commissioners hathe Commaundyd the seid parties by cause we coulde not Apese the seid matter vppon payne of an hundreth pounce to apere personally or by Attorney before the kynges most honorable Councell the morowe next after the purificacon of oure lady Accordyng to the tenure of the same Commission. In Witnes Wherof the seid Commissioners hathe sett ther seales the daye and yere Aboue seid.<sup>20</sup>

<sup>18</sup> The words 'hade agenst,' which followed, are struck through.

<sup>19</sup> The early style of the Court of Requests was 'The Kinges Counsaill in the Whytehall.' See 'Select Cases in the Court of Requests' (1898), pp. xiv, xv.

<sup>20</sup> The monogram of the clerk follows, but no seals, shewing this to be a copy. The judgements of the Court of Requests for this period are, unfortunately, lost.



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## R U L E S

1. The Society shall be called the Selden Society.

2. The object of the Society shall be to encourage the study and advance the knowledge of the history of English Law, especially by the publication of original documents and the reprinting or editing of works of sufficient rarity or importance.

3. Membership of the Society shall be constituted by payment of the annual subscription, or, in the case of life members, of the composition. Form of application is given at the foot.

4. The annual subscription shall be £1. 1s., payable in advance on or before the 1st of January in every year. A composition of £21 shall constitute life membership from the date of the composition, and, in the case of Libraries, Societies and corporate bodies, membership for 30 years.

5. The management of the affairs and funds of the Society shall be vested in a President, two Vice-Presidents, and a Council consisting of fifteen members, in addition to the *ex officio* members. The President, the two Vice-Presidents, the Literary Director or Directors, the Secretary, and the Treasurer shall be *ex officio* members. Three shall form a quorum.

6. The President, Vice-Presidents, and Members of the Council shall be elected for three years. At every Annual General Meeting such one of the President and Vice-Presidents as has, and such five members of the Council as have, served longest without re-election, shall retire.

7. The five vacancies in the Council shall be filled up at the Annual General Meeting in the following manner: (a) Any two Members of the Society may nominate for election any other member by a writing signed by them and the nominated member, and sent to the Secretary on or before the 14th of February. (b) Not less than fourteen days before the Annual General Meeting the Council shall nominate for election five members of the Society. (c) No person shall be eligible for election on the Council unless nominated under this Rule. (d) Any candidate may withdraw. (e) The names of the persons nominated shall be printed in the notice convening the Annual General Meeting. (f) If the persons nominated, and whose nomination shall not have been withdrawn, are not more than five, they shall at the Annual General Meeting be declared to have been elected. (g) If the persons nominated, and whose nomination shall not have been withdrawn, shall be more than five, an



election shall take place by ballot as follows : every member of the Society present at the Meeting shall be entitled to vote by writing the names of not more than five of the candidates on a piece of paper and delivering it to the Secretary or his Deputy, at such meeting, and the five candidates who shall have a majority of votes shall be declared elected. In case of equality the Chairman of the Meeting shall have a second or casting vote. The vacancy in the office of President or Vice-President shall be filled in the same manner (*mutatis mutandis*).

8. The Council may fill casual vacancies in the Council or in the offices of President and Vice-President. Persons so appointed shall hold office so long as those in whose place they shall be appointed would have held office. The Council shall also have power to appoint Honorary Members of the Society.

9. The Council shall meet at least twice a year, and not less than seven days' notice of any meeting shall be sent by post to every member of the Council.

10. The Council may appoint a Literary Director or Directors, a Secretary, a Treasurer, and such other officers as they shall from time to time think fit, to hold office during the pleasure of the Council ; and may from time to time prescribe their respective duties ; and may make any arrangement for the remuneration of any officer which they may from time to time think reasonable.

11. It shall be the duty of the Literary Director or Directors (but always subject to the control of the Council) to supervise the editing of the publications of the Society, to suggest suitable editors, and generally to advise the Council with respect to carrying the objects of the Society into effect.

12. Each member shall be entitled to one copy of every work published by the Society as for any year of his membership. No person other than an Honorary Member shall receive any such work until his subscription for the year as for which the same shall be published shall have been paid. Provided that any member may be supplied with any publications on such terms as the Council may from time to time determine.

13. The funds of the Society, including the vouchers or securities for any investments, shall be kept at a Bank, to be selected by the Council, in the name of the Society. Such funds or investments shall only be dealt with by a cheque or other authority signed by the Treasurer and countersigned by one of the Vice-Presidents or such other person as the Council may from time to time appoint.

14. The accounts of the receipts and expenditure of the Society up to the 31st of December in each year shall be audited once a year by two Auditors, to be appointed by the Society, and the report of the Auditors, with an

abstract of the accounts, shall be circulated together with the notice convening the Annual Meeting.

15. An Annual General Meeting of the Society shall be held in March 1896, and thereafter in the month of March in each year. The Council may upon their own resolution and shall on the request in writing of not less than ten members call a Special General Meeting. Seven days' notice at least, specifying the object of the meeting and the time and place at which it is to be held, shall be posted to every member resident in the United Kingdom at his last known address. No member shall vote at any General Meeting whose subscription is in arrear.

16. The Secretary shall keep a Minute Book wherein shall be entered a record of the transactions, as well at Meetings of the Council as at General Meetings of the Society.

17. These rules may upon proper notice be repealed, added to, or modified from time to time at any meeting of the Society. But such repeal, addition, or modification, if not unanimously agreed to, shall require the vote of not less than two-thirds of the members present and voting at such meeting.

*March 1909.*

#### FORM OF APPLICATION FOR MEMBERSHIP.

*To the Honorary Secretary of the Selden Society.*

I desire to become a member of the Society, and herewith send my cheque for One Guinea, the annual subscription [or £21 the life contribution] dating from the commencement of the present year. [I also desire to subscribe for the preceding years , and I add one guinea for each to my cheque.]

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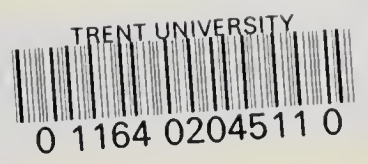
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